

APPENDIX A

WWE 2K Survey Report

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JAY

SURVEY

STRATEGICS

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Report of E. Deborah Jay, Ph.D.

I. Introduction and Summary

I am a principal and founder of Jay Survey Strategies LLC, a California research firm that specializes in providing survey design, sampling, data collection and statistical analysis. Jay Survey Strategies was retained on behalf of 2K Games, Inc. and Take-Two Interactive Software, Inc. to conduct a survey with a nationwide representative sample of individuals age 16 to 55 who had bought a WWE 2K16, WWE 2K17, or WWE 2K18 video game (hereafter "the relevant WWE 2K video games").¹ The purpose of the Jay Survey was to determine the reasons for buying the relevant WWE 2K video games and whether Randy Orton's tattoos were one of the reasons why consumers bought these games.²

As described in more detail in the discussion that follows, none of the survey's respondents said that they bought these games because of Randy Orton's tattoos, much less the tattoos at issue in this case.

A. Summary of Methodology

Under Jay Survey Strategies' design, direction and supervision, YouGov, a full-service market research firm, administered the Jay Survey over the Internet between November 2, 2018 and November 28, 2018. The individuals who were screened for eligibility and interviewed for the Jay Survey were randomly selected from two online panels that are representative of all individuals

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- 1 Jay Survey Strategies is performing this study on a time and materials basis. Because work in connection with this project is ongoing, I do not yet know the total project costs. The hourly rate that Jay Survey Strategies is charging for my time on this project in 2019 is \$650. Jay Survey Strategies' compensation is not dependent on the outcome of this litigation.
 - 2 Individuals age 16 to 55 were surveyed because I understand that most buyers of WWE 2K video games are in this age group.

age 16 and older in the U.S.: a) the online panel maintained by YouGov and b) the online panel maintained by Research Now/SSI, another full-service market research agency. The YouGov panel includes approximately 2.0 million persons in the U.S., and the Research Now/SSI panel includes approximately 10 million persons in the U.S.³ Each person who was randomly-selected from these panels and invited to participate in the Jay Survey was provided with a unique link to the survey, so that no person could participate in the survey more than once.⁴

Eligibility Criteria

To be eligible for the Jay Survey, individuals had to be age 16 to 55 and they had to have bought one or more of the following WWE 2K video games in the past 3 years: WWE 2K16, WWE 2K17, and/or WWE 2K18. Qualifying survey respondents also had to agree to answer all survey questions on their own, without asking anybody else for help or referring to reference materials or the Internet, and they could not live in a household in which someone worked for a video game company or video game store, or for an advertising agency or marketing research firm.⁵ In all, 18,127 randomly-selected individuals age 16 to 55 were screened for eligibility and, of these, 418 individuals (2%) qualified for the Jay Survey (*i.e.*, they had bought one or more of the relevant WWE 2K video games, and they did not work for a video game company or video game store, or for an advertising agency or marketing research firm).⁶

3 Background information on the YouGov and Research Now/SSI online panels is included in Appendix F and Appendix G, respectively.

4 The IP address and other information in the panel databases also were checked to ensure that the sample did not include duplicate respondents.

5 This is because these survey respondents might have special knowledge about the subject of the survey – namely, reasons for buying video games.

6 According to the *Reference Guide on Survey Research, Federal Reference Manual on Scientific Evidence*, 3rd Ed. (2011), probability sample confidence intervals provide a rough indicator of the value of estimates based on Internet surveys, such as this one. The maximum sampling error for analyses based on a probability sample of 418 survey respondents is approximately +/- 5 percentage points at the 95% confidence level. Note, the maximum sampling error is based on percentages in the middle of the sampling distribution (percentages around 50%). Percentages at either end of the sampling distribution (for example, percentages less than 10% or greater than 90%) will have a smaller margin of error.

Questions for Qualified Survey Respondents

The 418 survey respondents who qualified for the Jay Survey were asked up to four sets of questions about the relevant WWE 2K video games, which included open-ended questions (questions that required respondents to answer in their own words) and closed-ended questions (questions that required respondents to select from a set of response categories). The first set of questions asked survey respondents to describe in their own words the main reason why they bought the relevant WWE 2K video games, and their other reasons, if any, for buying these games.

The second set of questions asked survey respondents about 22 possible reasons for buying a WWE 2K video game: a) I or a family member likes wrestling, b) the ease of gameplay, c) the speed of gameplay, d) the size of the player roster, e) the inclusion of wrestling legends and NXT wrestling stars, f) the fighting style options, g) the choice of match types, h) the ability to customize matches (such as win conditions or match rules), i) the selection of movesets, j) the reversal system, k) the cut scenes, l) the backstage action, m) the commentary, n) the dialogue options, o) the music, p) the depiction of the wrestlers' movements, q) the depiction of the wrestlers' face, body or other aspects of their appearance, r) the overall quality of the graphics, s) the camera angles during gameplay, t) the crowd animations, u) the different arenas, and v) the price/value.⁷ Survey respondents were asked to indicate which of these items, if any, were a reason why they bought the relevant WWE 2K video games. They also were asked to indicate which item was their most important reason and which item was their next most important reason for buying the relevant

7 The list also included a fictitious feature, the "TJBD feature," which was created by randomly generating four letters. Survey respondents were asked whether they bought a WWE 2K16, WWE 2K17, and/or WWE 2K18 video game because of the TJBD feature (even though WWE 2K video games do not have this feature). The purpose of the fictitious feature was to measure the amount of guessing or "noise" in the Jay Survey. A question about a fictitious feature or "control question" is an accepted method for measuring the amount of guessing or "noise" in a survey.

WWE 2K video games. The order in which the items were listed was randomized across survey respondents.⁸

Survey respondents who said the depiction of the wrestlers' face, body or other aspects of their appearance was a reason for buying the relevant WWE 2K video games were asked a third set of questions. These survey respondents were asked whether the depiction of the appearance of particular wrestlers was a reason for buying the relevant WWE 2K video games, and, if so, which wrestlers' depiction was a reason for buying these games. The purpose of the third set of questions was to determine whether the depiction of Randy Orton's appearance was a reason for buying the relevant WWE 2K video games.

Survey respondents who identified one or more wrestlers whose appearance they thought was important to depict were asked a fourth set of questions. These survey respondents were asked whether there were particular features or aspects of the appearance of the wrestlers they identified that were important to depict, and, if so, what features or aspects of these wrestlers' appearance were important to depict. The purpose of the fourth set of questions was to determine whether Randy Orton's tattoos were a reason why survey respondents bought the relevant WWE 2K video games.

The Jay Survey was double-blind; neither the persons administering the survey nor the survey respondents were told: a) the names of the sponsors of the survey, b) that the survey was intended to determine the reasons for buying the relevant WWE 2K video games and whether Randy Orton's tattoos were a reason for buying these video games, or c) that the survey was being conducted in connection with litigation.

The Jay Survey was performed according to accepted survey standards and in conformity with the guidelines discussed in the *Federal Manual for Complex Litigation*, 4th Ed. §11.493

⁸ The randomization of the order of the items minimized the potential for the order of the items to influence the survey responses (known as "order effects" or "order bias").

(2004) and the *Reference Guide on Survey Research, Federal Reference Manual on Scientific Evidence*, 3rd Ed. (2011). The survey population was properly defined as individuals age 16 to 55 who had bought a WWE 2K16, WWE 2K17, and/or WWE 2K18 video game in the past 3 years, and the sample selected was representative of that population. The questions asked in the Jay Survey were clear and not leading. The data gathered for the Jay Survey were accurately reported, and the data were analyzed in accordance with accepted statistical principles. The Jay Survey was conducted, under my direction, by survey research professionals following proper survey procedures, and the entire process was conducted so as to ensure objectivity.

B. Summary of Findings and Conclusions

As described in more detail in this report, the Jay Survey found:

B1. Reasons for Buying a WWE 2K Video Game (Unaided Recall)

1. When asked to describe in their own words their main reason and their other reasons for buying the relevant WWE 2K video games, survey respondents were most apt to say that they bought the relevant WWE 2K video games because they like WWE, wrestling, wrestling video games, and/or the WWE 2K franchise (48%).
2. None of the survey respondents referred to the tattoos on any of the wrestlers or even mentioned Randy Orton.

B2. Reasons for Buying a WWE 2K Video Game (Aided Recall)

3. When given a list of possible reasons for buying a WWE 2K video game, most (85%) of the survey respondents selected more than one reason. The average number of reasons that survey respondents selected was approximately 7 and the median was 6.
4. In response to the closed-ended questions, survey respondents were most apt to indicate that they bought the relevant WWE 2K video games because they or a family member likes wrestling (56%).
5. Approximately 32% of the survey respondents indicated that the depiction of the wrestlers' face, body or other aspects of their appearance was a reason for buying

the relevant WWE 2K video games.⁹ Yet, only three persons (less than 1% of the survey respondents) said tattoos were an important feature of the appearance of certain wrestlers, and none of these survey respondents said it was important to depict Randy Orton's tattoos or even mentioned Randy Orton's tattoos.

B3. Most Important Reason (Aided Recall)

6. When given a list of reasons to choose from, the largest percentage of survey respondents (32%) indicated that their most important reason for buying the relevant WWE 2K video games was that they or a family member likes wrestling.
7. Only 3% of the survey respondents indicated that their most important reason for buying the relevant WWE 2K video games was the depiction of the wrestlers' face, body, or other aspects of their appearance.

B4. Top Two Reasons for Buying a WWE 2K Video Game (Aided Recall)

8. In response to the closed-ended questions, survey respondents also were most likely to indicate that their fondness for wrestling was one of their top two reasons for buying the relevant WWE 2K video games. Approximately 40% of the survey respondents said that their most important reason or their next most important reason for buying the relevant WWE 2K video games was that they or a family member likes wrestling.
9. Only 6% of the survey respondents said that their most important reason or their next most important reason for buying the relevant WWE 2K video games was the depiction of the wrestlers' face, body, or other aspects of their appearance.¹⁰

B5. Whether the Depiction of the Appearance of Particular Wrestlers Was a Reason for Buying a WWE 2K Video Game

10. Approximately 20% of the survey respondents said the depiction of the appearance of particular wrestlers was one of the reasons why they bought the relevant WWE 2K video games.

9 When given a list to choose from, 10% of the survey respondents indicated that the fictitious TJBD feature was a reason for buying the relevant WWE 2K video games. This means that approximately 10% of the survey respondents were guessing when they indicated an item was a reason for buying these games. To eliminate guessing, the percentage who selected each item should be reduced by 10 percentage points. In other words, 22% of the survey respondents (32% minus 10%) said the depiction of the wrestlers' face, body or other aspects of their appearance was a reason for buying the relevant WWE 2K video games after accounting for guessing and other sources of "noise."

10 Only 2% of the survey respondents indicated that the fictitious TJBD feature was their most important reason or their next most important reason for buying the relevant WWE 2K video games. This means that a negligible number of survey respondents guessed when asked their top two reasons for buying these games.

11. When asked which wrestlers' appearance was important to depict, these survey respondents named many different wrestlers. But only four persons (less than 1% of the survey respondents) said Randy Orton's appearance was one of the reasons why they bought the relevant WWE 2K video games.¹¹

B6. Whether It Was Important to Depict Particular Features or Aspects of Certain Wrestlers' Appearance

12. Approximately 12% of the survey respondents said that it was important to depict particular features or aspects of certain wrestlers' appearance. Yet, when asked which particular features of these wrestlers' appearance were important, no person mentioned Randy Orton's tattoos.¹²
13. Only two persons (less than 1% of the survey respondents) said that it was important to depict a particular feature or aspect of Randy Orton's appearance, and neither of these survey respondents mentioned Randy Orton's tattoos.¹³

Based on the overall design and execution of the Jay Survey, it provides representative and reliable information regarding individuals age 16 to 55 who bought the relevant WWE 2K video games. In my opinion, the Jay Survey strongly supports the conclusions that a) consumers bought the relevant WWE 2K video games for numerous reasons, principally that they like WWE or wrestling, b) no consumers bought the relevant WWE 2K video games for Randy Orton's tattoos, let alone the tattoos at issue in this case, and c) there is no link between the sales of the WWE 2K video games and their depiction of Randy Orton's tattoos.

The findings of the Jay Survey and my conclusions are described in more detail in the remainder of this report, which is based on information that I have been provided and analyses that

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- 11 The four survey respondents who mentioned Randy Orton only did so at the end of the survey after they were prompted to identify the names of particular wrestlers. None of these survey respondents mentioned Randy Orton when they were initially asked their main reason and their other reasons for buying a WWE 2K game. Further, the four survey respondents who identified Randy Orton after prompting did not say that Randy Orton's tattoos were one of the reasons why they bought the relevant WWE 2K games or even mention Randy Orton's tattoos. These survey respondents indicated an average of 14 reasons for buying a WWE 2K game in response to the closed-ended questions.
- 12 Less than 1% of the survey respondents (only three persons) said tattoos were an important feature of the appearance of certain wrestlers. Two of these survey respondents said that it was important to depict Brock Lesnar's tattoos, and one survey respondent said that it was important to depict all of the wrestlers' facial expressions and tattoos, but did not explicitly mention Randy Orton.
- 13 Both of these survey respondents said that it was important to depict Randy Orton's moves.

I have performed thus far.¹⁴ I understand that I may be provided with additional information or asked to perform further analyses. If so, this report may be amended or revised.

II. Credentials

I am a principal and founder of Jay Survey Strategics LLC, a California research firm that specializes in providing survey design, sampling, data collection and statistical analysis. I have more than 40 years of experience conducting large-scale surveys of all types (*e.g.*, mail, Internet, telephone, and in-person), including surveys for public agencies, nonprofit organizations, private companies and law firms. During my career, I have designed and directed well over 800 surveys and more than 400 surveys in legal cases. I have testified on behalf of plaintiffs and defendants in proceedings before state and federal courts and other tribunals (such as the U.S. Patent and Trademark Office and the U.S. International Trade Commission) in numerous cases, and routinely have been qualified by courts as an expert in survey methodology.¹⁵ I also have lectured on litigation surveys and survey methods before bar associations, trade associations, and business and law schools, and been on the faculties of numerous continuing legal education programs.

I am past chair of the Council of American Survey Research Organizations (CASRO), a not-for-profit trade association representing more than one hundred commercial survey research companies in the United States, and I chaired the Standards Committee for the American Association for Public Opinion Research, a professional society of over 2,000 individuals engaged in opinion research, market research, and social research at public agencies, nonprofit

14 The materials I considered in forming my opinions are described in Appendix C; screenshots showing how the questionnaire appeared on the computer are in Appendix D; and a detailed description of the methods used to conduct the Jay Survey is in Appendix E.

15 Appendix A includes a list of cases in which I have testified in deposition and/or at trial during the past four years, and Appendix B includes my resume and a list of publications and presentations I have authored (or coauthored) during the past 10 years.

organizations and private companies.¹⁶ I have served on the editorial board of several journals, and my publications include articles in the *Trademark Reporter*, the *Encyclopedia of Survey Research Methods*, *Polling America: An Encyclopedia of Public Opinion*, and *Trademark and Deceptive Advertising Surveys: Law, Science and Design*.

I hold a bachelor's degree in psychology and political science from the University of California at Los Angeles (*magna cum laude*) and a master's degree and doctorate in political science from the University of California at Berkeley. Before founding Jay Survey Strategies, I served for 23 years as President and CEO of Field Research Corporation, the highly-respected marketing and opinion research firm started by Mervin Field in 1945. When I was President and CEO of Field Research, we conducted over 100,000 interviews per year with representative samples of the public, consumers, corporate executives, and other populations. Field Research also conducted the nationally-quoted *Field Poll*, which tracked voter preferences in all major statewide elections in California.¹⁷ I also have been a program director at SRI International (formerly Stanford Research Institute), a manager with KPMG Peat Marwick in San Francisco, and a research associate at the Survey Research Center at the University of California at Berkeley.

III. Findings

This section describes the findings from the Jay Survey. The verbatim responses to the open-ended questions are in Appendix H and Appendix I.

¹⁶ CASRO merged with the Marketing Research Association (the MRA) in January 2017 to form the Insights Association.

¹⁷ During my tenure, the average deviation between *The Field Poll's* final pre-election poll in California and the actual percentage vote in California for the winning candidate in elections for President, Governor and U.S. Senate was approximately two percentage points, and the *Field Poll* received an A+ rating for accuracy from the highly-respected statistician Nate Silver on his www.fivethirtyeight.com website.

A. Which WWE 2K Video Games Survey Respondents Bought

As shown in Table 1, 61% or more of the survey respondents had bought each of the relevant WWE 2K video games.

Table 1 Which WWE 2K Video Games Survey Respondents Had Bought*	
	Percent of Survey Respondents
	(n = 418)
WWE 2K16	61%
WWE 2K17	70
WWE 2K18	69

* Based on Question S8. Note, percentages add to more than 100% because some survey respondents bought more than one WWE 2K video game.

A little over one-third (36%) of the survey respondents had bought all three of the relevant WWE 2K video games, and almost two-thirds (63%) had bought two or more of the relevant WWE 2K video games. (See Table 2.)

Table 2 How Many of the Relevant WWE 2K Video Games Survey Respondents Had Bought*	
	Percent of Survey Respondents
	(n = 418)
One	37%
Two	27
Three	36

* Based on Question S8.

B. Reasons for Buying a WWE 2K Video Game (Unaided Recall)

Survey respondents were asked the following open-ended questions: "What was the main reason why you bought the following WWE 2K video game(s): WWE 2K16, WWE 2K17 and/or WWE 2K18?" and "What were the other reasons, if any, why you bought the following WWE 2K video game(s): WWE 2K16, WWE 2K17, and/or WWE 2K18?"¹⁸ Survey respondents' answers to

¹⁸ Survey respondents' verbatim responses to these questions are in Appendix H.

these questions are summarized in Table 3. In response to the open-ended questions, the largest percentage (48%) of survey respondents volunteered that they bought the relevant WWE 2K video games because they like WWE, wrestling, wrestling video games, and/or the WWE 2K franchise. Only 3% of the survey respondents said that the games' realism or life-like characters was their main reason or another reason for buying the relevant WWE 2K video games. None of the survey respondents referred to the tattoos on any wrestlers or even mentioned Randy Orton.

Table 3 Main Reasons and Other Reasons Why Survey Respondents Bought a WWE 2K Video Game (Unaided Recall)*	
	Percent of Survey Respondents
	<i>(n = 418)</i>
I like WWE, wrestling, wrestling video games, and/or the WWE 2K franchise	48%
The quality of gameplay/it's a fun or challenging game	29
My friends or family like wrestling or wanted this game	22
Has my favorite wrestlers, like the wrestlers/characters	15
The price/value	9
It's a multiplayer game, wanted to play the game with friends	8
The graphics	7
The games' realism or life-like characters	3
The wrestlers' tattoos	0
Mentioned Randy Orton	0
Mentioned other wrestlers (e.g., Stone Cold Steve Austin, AJ Styles)	4
Misc. other responses (e.g., it was A-list rated, wanted to upgrade)	29
Don't know	7

* Based on Questions A1 and A2. Note, percentages add to more than 100% because some survey respondents volunteered more than one reason for buying a WWE 2K video game.

C. Reasons for Buying a WWE 2K Video Game (Aided Recall)

The next set of questions asked survey respondents about 22 possible reasons for buying a WWE 2K video game: a) I or a family member likes wrestling, b) the ease of gameplay, c) the speed of gameplay, d) the size of the player roster, e) the inclusion of wrestling legends and NXT wrestling stars, f) the fighting style options, g) the choice of match types, h) the ability to customize matches (such as win conditions or match rules), i) the selection of movesets, j) the reversal system,

k) the cut scenes, l) the backstage action, m) the commentary, n) the dialogue options, o) the music, p) the depiction of the wrestlers' movements, q) the depiction of the wrestlers' face, body or other aspects of their appearance, r) the overall quality of the graphics, s) the camera angles during gameplay, t) the crowd animations, u) the different arenas, and v) the price/value. The list of possible reasons also included a fictitious feature, "the TJBD feature," which was created by randomly generating four letters. Survey respondents were asked whether they bought the relevant WWE 2K video games because of the TJBD feature (even though WWE 2K video games do not have this feature). The purpose of the fictitious feature was to measure the amount of guessing or "noise" in the Jay Survey. The order in which the items were listed, including the fictitious feature, was randomized across survey respondents.

As shown in Table 4, when given a list of possible reasons for buying a WWE 2K video game, most of the survey respondents (85%) selected more than one reason, and almost half (49%) selected six or more reasons.

Table 4 Number of Items Survey Respondents Checked, When Given a List of Possible Reasons for Buying a WWE 2K Video Game (Aided Recall)*	
	Percent of Survey Respondents
	<i>(n = 418)</i>
One	12%
Two or three	20
Four or five	16
Six to nine	24
Ten or more	25
<i>Not applicable – Did not know the reasons why they bought a WWE 2K video game or did not select any of the reasons listed</i>	3

* Based on Question B1.

The average (mean) number of reasons that survey respondents selected was 7, and the median was 6. (See Table 5.)

Table 5 Mean and Median Number of Reasons Survey Respondents Checked, When Given a List of Possible Reasons for Buying a WWE 2K Video Game (Aided Recall)*	
	Percent of Survey Respondents
	<i>(n = 418)</i>
Mean (average)	7
Median	6

* Based on Question B1. Note, 13 survey respondents did not check any of the reasons listed or said "Don't Know" in response to Question B1. The mean and median are based on those survey respondents who checked one or more items.

As shown in Table 6, survey respondents were most apt to indicate that they bought the relevant WWE 2K video games because of the following reasons: they or a family member likes wrestling (56%), the inclusion of wrestling legends and NXT wrestling stars (43%), and the overall quality of the graphics (43%). Approximately 32% of the survey respondents said that they bought the relevant WWE 2K video games because of the depiction of the wrestlers' face, body, or other aspects of their appearance.

Only two persons (less than 1% of the survey respondents) said the depiction of the wrestlers' appearance was the only reason why they bought the relevant WWE 2K video games, and the average (mean) number of other reasons checked by survey respondents who said the depiction of the wrestlers' face, body, or other aspects of their appearance was a reason for buying these games was 11.

When given a list of reasons and asked to check all that apply, approximately 10% of the survey respondents indicated that the fictitious TJBD feature was a reason for buying the relevant WWE 2K video games. This means that approximately 10% of the survey respondents were guessing when they checked an item.

Table 6 Items Survey Respondents Selected When Given a List of Possible Reasons for Buying a WWE 2K Video Game (Aided Recall)*	
	Percent of Survey Respondents
	<i>(n = 418)</i>
I or a family member likes wrestling	56%
The inclusion of wrestling legends and NXT wrestling stars	43
The overall quality of the graphics	43
The fighting style options	38
The size of the player roster	36
The ability to customize matches (such as win conditions or match rules)	36
The choice of match types	34
The ease of gameplay	34
The price/value	34
The depiction of the wrestlers' movements	32
The depiction of the wrestlers' face, body or other aspects of their appearance	32
The different arenas	31
The backstage action	29
The music	29
The speed of gameplay	26
The selection of movesets	25
The crowd animations	22
The cut scenes	21
The camera angles during gameplay	21
The commentary	20
The reversal system	19
The dialogue options	19
The TJBD feature	10
None of the above	1
Don't know	2

* Based on Question B1. Note, percentages add to more than 100% because some survey respondents selected more than one reason for buying a WWE 2K video game in Question B1.

To eliminate guessing, we subtracted ten percentage points from the percentage who checked each item. As shown in Table 7, 22% of the survey respondents indicated that the depiction of the wrestlers' face, body, or other aspects of their appearance was a reason for buying the relevant WWE 2K video games after accounting for guessing and other sources of "noise."

Table 7 Items Survey Respondents Selected When Given a List of Possible Reasons for Buying a WWE 2K Video Game, After Accounting for Guessing and Other Sources of Noise (Aided Recall)*	
	Percent of Survey Respondents
	<i>(n = 418)</i>
I or a family member likes wrestling	46%
The inclusion of wrestling legends and NXT wrestling stars	33
The overall quality of the graphics	33
The fighting style options	28
The size of the player roster	26
The ability to customize matches (such as win conditions or match rules)	26
The choice of match types	24
The ease of gameplay	24
The price/value	24
The depiction of the wrestlers' movements	22
The depiction of the wrestlers' face, body or other aspects of their appearance	22
The different arenas	21
The backstage action	19
The music	19
The speed of gameplay	16
The selection of movesets	15
The crowd animations	12
The cut scenes	11
The camera angles during gameplay	11
The commentary	10
The reversal system	9
The dialogue options	9

* Based on Question B1. Note, percentages add to more than 100% because some survey respondents selected more than one reason for buying a WWE 2K video game in Question B1.

D. Most Important Reason for Buying a WWE 2K Video Game (Aided Recall)

Next, survey respondents were asked to indicate which of the items listed was their most important reason for buying the relevant WWE 2K video games. As shown in Table 8, the largest percentage (32%) of survey respondents indicated that their most important reason for buying the relevant WWE 2K video games was that they or a family member likes wrestling. Approximately one-in-ten survey respondents said that their most important reason for buying the relevant WWE

2K video games was the overall quality of the games' graphics (10%) or the games' price or value (9%). Only 3% of the survey respondents indicated that their most important reason for buying the relevant WWE 2K video games was the depiction of the wrestlers' face, body or other aspects of their appearance.

Table 8 Most Important Reason for Buying a WWE 2K Video Game (Aided Recall)*	
	Percent of Survey Respondents <i>(n = 418)</i>
I or a family member likes wrestling	32%
The overall quality of the graphics	10
The price/value	9
The inclusion of wrestling legends and NXT wrestling stars	8
The fighting style options	6
The size of the player roster	5
The ease of gameplay	3
The ability to customize matches (such as win conditions or match rules)	3
The depiction of the wrestlers' face, body or other aspects of their appearance	3
The cut scenes	2
The choice of match types	2
The dialogue options	2
The depiction of the wrestlers' movements	2
The crowd animations	2
The speed of gameplay	1
The music	1
The selection of movesets	1
The reversal system	1
The backstage action	1
The commentary	<1
The TJBD feature	<1
The different arenas	<1
The camera angles during gameplay	<1
Don't know	1
<i>Not applicable – Did <u>not</u> indicate that any of the above were a reason for buying a WWE 2K video game</i>	3

* Based on Question B2.

E. Top Two Reasons for Buying a WWE 2K Video Game (Aided Recall)

Survey respondents also were asked to indicate which of the reasons listed was their second most important reason for buying the relevant WWE 2K video games. Table 9 summarizes the top two reasons survey respondents gave for buying the relevant WWE 2K video games. When given a list, the largest percentage (40%) of survey respondents indicated that their most important reason or their next most important reason for buying the relevant WWE 2K video games was that they or a family member likes wrestling. Ten percent or more of the survey respondents indicated that each the following were one of their top two reasons for buying the relevant WWE 2K video games: the overall quality of the graphics (17%), the inclusion of wrestling legends and NXT wrestling stars (16%), the price/value (15%), the size of the player roster (12%), the fighting style options (11%), and the ability to customize matches (such as win conditions or match rules) (10%). A smaller percentage of the survey respondents (6%) said that their most important reason or their next most important reason for buying the relevant WWE 2K video games was the depiction of the wrestlers' face, body or other aspects of their appearance.

Only seven persons (approximately 2% of the survey respondents) indicated that the fictitious TJBD feature was one of their top two reasons for buying the relevant WWE 2K video games. This means that a negligible number of survey respondents guessed when asked for their most important reason and their next most important reason for buying the relevant WWE 2K video games.

Table 9 Top Two Reasons for Buying a WWE 2K Video Game (Aided Recall)*	
	Percent of Survey Respondents
	(n = 418)
I or a family member likes wrestling	40%
The overall quality of the graphics	17
The inclusion of wrestling legends and NXT wrestling stars	16
The price/value	15
The size of the player roster	12
The fighting style options	11
The ability to customize matches (such as win conditions or match rules)	10
The ease of gameplay	8
The choice of match types	7
The depiction of the wrestlers' face, body or other aspects of their appearance	6
The cut scenes	5
The depiction of the wrestlers' movements	5
The speed of gameplay	4
The music	4
The dialogue options	3
The different arenas	3
The selection of movesets	3
The crowd animations	3
The reversal system	2
The backstage action	2
The commentary	2
The camera angles during gameplay	2
The TJBD feature	2
Not applicable – Did <u>not</u> indicate that any of the above were a reason for buying a WWE 2K video game	3

* Based on Questions B2 and B3.

F. Whether the Depiction of the Appearance of Particular Wrestlers Was a Reason for Buying a WWE 2K Video Game

Survey respondents who said that the depiction of the wrestlers' face, body or other aspects of their appearance was a reason for buying the relevant WWE 2K video games were asked the following question: "Was the depiction of the appearance of any particular wrestler or wrestlers a reason why you bought the following WWE 2K video game(s): WWE 2K16, WWE 2K17, and/or WWE 2K18?" Approximately 20% of the survey respondents said the depiction of the appearance of particular wrestlers was a reason for buying the relevant WWE 2K video games. (See Table 10.)

Table 10 Whether the Depiction of the Appearance of Any Particular Wrestler or Wrestlers Was a Reason for Buying a WWE 2K Video Game*	
	Percent of Survey Respondents
	<i>(n = 418)</i>
Yes	20%
No	9
Don't know	3
<i>Not applicable – Did <u>not</u> say the depiction of the wrestlers' face, body, or other aspects of their appearance was a reason for buying a WWE 2K video game</i>	68

* Based on Question C1.

These survey respondents were asked the following question: "Which wrestler or wrestlers' depiction was a reason why you bought the following WWE 2K video game(s): WWE 2K16, WWE 2K17, and/or WWE 2K18?"¹⁹ As shown in Table 11, less than 1% of the survey respondents (four persons) said that the depiction of Randy Orton's appearance was one of the reasons why they bought the relevant WWE 2K video games.²⁰

¹⁹ Survey respondents' verbatim responses to the questions summarized in this section are in Appendix I.

²⁰ The four survey respondents who mentioned Randy Orton only did so at the end of the survey after they were prompted to identify the names of particular wrestlers. None of these survey respondents mentioned Randy Orton when they were initially asked their main reason and their other reasons for buying a WWE 2K game. Further, the four survey respondents who identified Randy Orton after prompting did not say that Randy Orton's tattoos were one of the reasons why they bought the relevant WWE 2K games or even mention Randy Orton's tattoos. These survey respondents indicated an average of 14 reasons for buying a WWE 2K game in response to the closed-ended questions.

Table 11 Which Wrestlers' Appearance Was Important to Depict*	
	Percent of Survey Respondents
	(n = 418)
Randy Orton	<1%
Named another wrestler (e.g., Asuka, Finn Balor, Jake Roberts, Kurt Angle, Roman Reigns, Stone Cold Steve Austin)	11
Misc. other comments (e.g., like all the wrestlers, like the graphics/realism)	6
Don't know	3
Not applicable – Did <u>not</u> say the depiction of the appearance of particular wrestlers was a reason for buying a WWE 2K video game	80

* Based on Question C2.

G. What Features or Aspects of Particular Wrestlers' Appearance Were Important to Depict

Survey respondents who said the depiction of a particular wrestler was a reason for buying the relevant WWE 2K video games and who identified one or more wrestlers whose appearance they thought was important to depict were asked the following question: "Were there any particular features or aspects you thought were important to depict of the following wrestler or wrestlers' appearance: [WRESTLERS THE RESPONDENT IDENTIFIED]?" Their responses to this question are summarized in Table 12. Approximately 12% of the survey respondents said it was important to depict particular features or aspects of the appearance of the wrestlers they identified. Yet, only two persons (less than 1% of the survey respondents) said it was important to depict particular features or aspects of Randy Orton's appearance.

Table 12 Whether It Was Important to Depict Particular Features or Aspects of the Appearance of Certain Wrestlers*	
	Percent of Survey Respondents
	<i>(n = 418)</i>
Yes	12%
No	4
Don't know	1
<i>Not applicable – Said "don't know" when asked which wrestlers' depiction was a reason why they bought a WWE 2K video game</i>	3
<i>Not applicable – Did <u>not</u> say the depiction of the appearance of particular wrestlers was a reason for buying a WWE 2K video game</i>	80

* Based on Question C3.

Survey respondents who said that it was important to depict particular features or aspects of the appearance of certain wrestlers were asked the following question: "What features or aspects were important to depict of the following wrestler or wrestlers' appearance: [WRESTLERS THE RESPONDENT IDENTIFIED]?" As shown in Table 13, less than 1% of the survey respondents (three persons) mentioned tattoos. Two survey respondents said it was important to depict Brock Lesnar's tattoos, and one survey respondent said that it was important to depict all wrestlers' facial expressions and tattoos, but did not explicitly refer to Randy Orton.

Only two persons (less than 1% of the survey respondents) said that it was important to depict a particular feature or aspect of Randy Orton's appearance, and neither of these survey respondents said it was important to depict Randy Orton's tattoos. Instead, these survey respondents said it was important to depict Randy Orton's moves or finishing moves.

Table 13 Which Features or Aspects of Particular Wrestlers Were Important to Depict*	
	Percent of Survey Respondents
	(n = 418)
Randy Orton's tattoos	0%
Randy Orton's moves or finishing moves (no mention of tattoos)	<1
Brock Lesnar's tattoos or all wrestlers' tattoos	<1
Other responses, no mention of Randy Orton or tattoos (e.g., Daniel Bryan's beard, Stone Cold Steve Austin's facial features, Kurt Angle's hair and face)	10
Don't know	1
Not applicable – Did <u>not</u> say it was important to depict particular features or aspects of certain wrestlers' appearance	88

* Based on Questions C3 and C4.

IV. Conclusions

The Jay Survey was performed according to accepted survey standards and in conformity with the guidelines discussed in the *Federal Manual for Complex Litigation*, 4th Ed. §11.493 (2004) and the *Reference Guide on Survey Research, Federal Reference Manual on Scientific Evidence*, 3rd Ed. (2011). Based on the overall design and execution of the Jay Survey, it provides representative and reliable information regarding individuals age 16 to 55 who bought the relevant WWE 2K video games. In my opinion, the Jay Survey strongly supports the conclusions that a) consumers bought the relevant WWE 2K video games for numerous reasons, principally that they like WWE or wrestling, b) no consumers bought the relevant WWE 2K video games for Randy Orton's tattoos, let alone the tattoos at issue in this case, and c) there is no link between the sales of the WWE 2K video games and their depiction of Randy Orton's tattoos.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 7th day of January at Redwood City, California.

E. Deborah Jay, Ph.D.

Appendix A

E. Deborah Jay, Ph.D. Deposition and Trial Testimony During the Past Four Years

E. Deborah Jay, Ph.D.
Deposition and Trial Testimony During the Past Four Years

1. *RXD Media, LLC v. IP Application Development LLC and Apple, Inc.* (United States District Court, Eastern District of Virginia)
Case No. 1:18-CV-486-LO-TCB
2. *Erik M. Underwood v. Bank of America* (United States District Court, District of Colorado)
Case No. 1:18-CV-02329-WYD
3. *Solid 21, Inc. v. Hublot of America* (United States District Court, Central District of California)
Case No. 2:11-CV-00468-DMG-JC
4. *Saxon Glass Technologies, Inc. v. Apple, Inc.* (United States District Court, Western District of New York)
Case No. 1:15-CV-00581-EAW-HKS
5. *VirnetX, Inc. and Leidos v. Apple, Inc.* (United States District Court, Eastern District of Texas)
Case No. 6:12-CV-00855-RWS
6. *Lauren Hall v. Welch Foods, Inc. and The Promotion In Motion Companies* (United States District Court, Eastern District of New York)
Case No. 1:17-CV-05828-MKB-VMS
7. *Luci Bags LLC v. Younique LLC* (United States District Court, Eastern District of Texas)
Case No. 4:17-CV-377
8. *The Kroger Co. v. Lidl* (United States District Court, Eastern District of Virginia)
Case No. 3:17-CV-00480-JAG
9. *Pom Wonderful LLC v. The Coca-Cola Company* (United States District Court, Central District of California)
Case No. 2:08-CV-06237-SJO-FMO
10. *VirnetX, Inc. and Science Applications Int'l Corp. v. Apple, Inc.* (United States District Court, Eastern District of Texas)
Case No. 6:13-CV-00855
11. *Denis George Mahan P/K/A Deney Terrio v. Hasbro, Inc. and Hasbro Studios, LLC.* (United States District Court, Middle District of Florida)
Case No. 6:15-CV-00188-RBD-GJK
12. *Twentieth Century Fox Television and Fox Broadcasting Co. v. Empire Distribution, Inc.* (United States District Court, Central District of California)
Case No. 2:15-CV-02158-PA-FFM

13. *Linx Bracelets, Inc. v. Origami Owl, LLC* (United States District Court, Central District of California)
Case No. 2:14-CV-06799-SVW (JEM)
14. *In the Matter of Certain Footwear Products* (United States International Trade Commission)
Investigation No. 337-TA-936
15. *Pinterest, Inc. v. Pintrips, Inc.* (United States District Court, Northern District of California)
Case No. 13-4608 (HSG)

Appendix B

E. Deborah Jay, Ph.D. Resume and Publications and Presentations Since 2009

- *Resume*
- *Publications and Presentations Since 2009*

E. Deborah Jay, Ph.D.

Current Position

Principal/Founder, Jay Survey Strategies LLC
2000 Broadway St., Suite 143
Redwood City, CA 94063
(415) 533-0020
deborahjay@jaysurveystrategies.com

Jay Survey Strategies is a research agency primarily involved in conceptualizing, planning, executing, and reporting on custom-designed opinion studies.

Technical Skills

Expert in research design and all phases of survey methodology – questionnaire design, sampling, data collection, data processing, qualitative and quantitative data analysis, with more than 40 years' experience conducting large-scale surveys of all types.

Research Experience

Branding, marketing and advertising research:

Responsible for branding, marketing, and advertising research relating to services and products in a variety of industries (*e.g.*, health, education, technology, communications, finance, transportation, and wholesale/retail trade).

Public policy studies:

Responsible for policy analyses and evaluations concerning medical assistance programs (*e.g.*, Medicaid, Medicare, and county health services), public health campaigns (*e.g.*, concerning tobacco use, diet and nutrition), educational programs (*e.g.*, for disadvantaged students and students with disabilities), general assistance programs, and other public issues (*e.g.*, child care, access to telephone service, the environment).

Litigation support:

Court-qualified expert in survey methodology; responsible for conducting and evaluating surveys for legal cases involving a variety of issues (*e.g.*, trademark, copyright and patent infringement, false advertising, right of publicity/false endorsement, defamation, exempt/nonexempt employment classification, off-the-clock work and other wage and hour issues, employment discrimination, product liability, business conduct, natural resources valuation, change of venue) and providing expert testimony in proceedings before state and federal courts and other tribunals such as the International Trade Commission and the U.S. Patent and Trademark Office.

Professional Experience Before Founding Jay Survey Strategies

President and CEO, Field Research Corporation, San Francisco, CA.

Program Director and Senior Research Social Scientist, SRI International (formerly Stanford Research Institute), Menlo Park, CA.

Manager, Management Consulting Division, KPMG Peat Marwick, San Francisco, CA.

Public Policy Analyst/Survey Specialist, Teknekron, Berkeley, CA.

Research Associate, Survey Research Center, University of California, Berkeley, CA.

Education

Ph.D. in political science, University of California at Berkeley (1981).

M.A. in political science, University of California at Berkeley (1973).

B.A. in psychology/political science, University of California at Los Angeles (1972, *magna cum laude*, Phi Beta Kappa).

Professional Associations

Council of American Survey Research Organizations (CASRO):

Board of Directors (1995-2001); Chair (1999); Chair-Elect (1998); Secretary (1997); Chair, Committee on Survey Research Quality (1997-1998); Chair, Committee on Standards and Ethics (1995-1996).

American Association for Public Opinion Research (AAPOR):

Editorial Board, Survey Practice (2007-2017); Advisory Council, Public Opinion Quarterly (2008-2012); Executive Council (2001-2003); Standards Chair (2002-2003); Associate Standards Chair (2001-2002); Standards Committee Member (1992); Past President, Pacific Chapter (1989); Appointed to numerous ad hoc committees (e.g., 2009 Standards Review Committee, 2010 Survey-Based Legal Evidence Committee).

International Trademark Association (INTA):

Editorial Board, Trademark Reporter (2012-present); Brand Names Education Committee (2004).

Other Directorships

Board of Directors, Roper Center for Public Opinion Research (housed at the University of Connecticut) (1997-2003); Member, Committee on Data Acquisitions & Standards (2001-2003).

Board of Directors, Bay Area Council (1991-2009).

Board of Directors, Bay Area Economic Forum (1996-2001).

San Francisco Municipal Fiscal Advisory Committee to the Mayor (Committee Member, 1991-2001; Executive Committee Member, 1998-2001).

Teaching Experience

Lecturer, New York City Bar Association, Trademarks and Unfair Competition Committee (New York, June 2015).

Faculty member, 2015 Trademark Office Comes to California, Continuing Legal Education Seminars sponsored by The State Bar of California Intellectual Property Law Section (Los Angeles and San Francisco, 2015).

Faculty member, IP BYTES: Hot Topics in Trademark Law, Continuing Legal Education Seminar sponsored by the Intellectual Property Section of the Bar Association of San Francisco (2014).

Lecturer, American Intellectual Property Law Association, Annual Conference (Washington DC, 2012).

Faculty member, Current Trends in Wage & Hour Litigation: Economic, Legal and Statistical Issues, Continuing Legal Education Seminar sponsored by ERS Group (San Francisco, 2006 and 2009; New York, 2007; Santa Monica, 2006, 2007, 2009, 2011 and 2012).

Lecturer, New York City Bar Association, Trademark and Copyright Committee (New York, 2011).

Faculty member, 2010 IP Damages Institute sponsored by the CalCPA Education Foundation (Los Angeles, 2010).

Faculty member, The State Bar of California 35th Annual Intellectual Property Institute (Napa, 2010).

Faculty member, Florida Bar Intellectual Property Law Symposium (Tampa, 2010).

Lecturer, Marketing Research Council (New York, 2010).

Lecturer, Surveys in Trademark Prosecution and Litigation, Continuing Legal Education Seminar and Roundtable hosted by Graham and Dunn for the International Trademark Association (Seattle, 2009).

Guest lecturer, American Studies Program, University of California at Berkeley (1999 and 2008).

Lecturer, San Francisco Intellectual Property Law Association. (San Francisco, 2006).

Faculty member, Advertising and Marketing Law, Continuing Legal Education Seminar sponsored by Insight Information (Chicago, 2006).

Faculty member, 2005 Advertising and Trademark Seminar, sponsored by Kirkland and Ellis LLP (Chicago, 2005).

Faculty member, Trademark Portfolio Acquisition and Protection, Continuing Legal Education Seminar sponsored by Law Seminars International (San Diego, 2004).

Faculty member, Trademark Dilution & Damages, Intellectual Property Section, The Barristers Club of San Francisco (2003).

Guest lecturer, Intellectual Property Seminar, Boalt Law School, University of California at Berkeley (1999-2003).

Faculty member, Basics of Trademark Litigation, Continuing Legal Education Seminar sponsored by the International Trademark Association (Washington DC, 2001).

Guest lecturer at the graduate and undergraduate levels, Marketing Research Seminars, Haas School of Business, University of California at Berkeley (1995-2000).

Faculty member, Forensics Research Conference, Council of American Survey Research Organizations (New York, 2000).

Faculty member, Employment Discrimination: Statistical Evidence and Economic Exposure, Continuing Legal Education Seminar sponsored by ERS Group (Atlanta, Chicago, San Francisco, 1996-2000).

Faculty member, Advertising Law for the Next Century in California, Continuing Legal Education Seminar sponsored by Lorman Education Services (San Francisco, 1999).

Guest lecturer, Institute for Governmental Studies, University of California at Berkeley (1999).

Faculty member, National Advertising Division of the Council of Better Business Bureaus, Workshop IX (San Francisco, 1998).

Lecturer on public opinion research, Political Science Department, University of California at Davis (1978).

E. Deborah Jay, Ph.D.
Publications and Presentations Since 2009
(Author or Co-author)

"Trademark Survey Evidence: Getting Through the Gate." Presentation at the 2018 Perkins Coie Intellectual Property Group Retreat (Denver, October 2018).

"Targeting Trademark Surveys." Presentation to the New York City Bar Association Trademarks and Unfair Competition Committee (New York, June 2015).

"Mark My Words: Contemporary Trademark Surveys." Presentation for the 2015 Trademark Office Comes to California, Continuing Legal Education Seminars sponsored by The State Bar of California Intellectual Property Law Section (Los Angeles and San Francisco, April 2015).

"He Who Steals My Good Name: Likelihood-of-Confusion Surveys in TTAB Proceedings." 104 Trademark Reporter 1141 (2014).

"Millennium Falconry: Navigating the Hyperspace of 21st Century Trademark Surveys." Presentation for the IP BYTES: Hot Topics in Trademark Law seminar sponsored by the Intellectual Property Section of the Bar Association of San Francisco (July 2014).

"Ten Truths of False Advertising Surveys." 103 Trademark Reporter 1116 (2013).

"Polling Consumers: Surveys in Advertising Cases." Presentation at the 2012 American Intellectual Property Law (AIPLA) Annual Conference. (Washington DC, October 2012).

"Genericness Surveys in Trademark Disputes: Under the Gavel." In Trademark and Deceptive Advertising Surveys: Law, Science, and Design, edited by Shari Seidman Diamond and Jerre B. Swann (Chicago, IL: American Bar Association, 2012).

"He Who Steals My Good Name: The Use of Survey Evidence in Intellectual Property Cases." Presentation at the New York City Bar Association Trademark and Copyright Committee (New York, December 2011).

"Using Surveys to Assess Damages in Intellectual Property Disputes." Presentation at the 2010 IP Damages Institute sponsored by the CalCPA Education Foundation (Los Angeles, November 2010).

"Wine, Women & Song: The Use of Survey Evidence in the Gallo, Princess Diana and Napster Cases." Presentation at The State Bar of California 35th Annual Intellectual Property Institute (Napa, October 2010).

"Asked and Answered: Surveys in Trademark and Other Intellectual Property Disputes." Presentation at the Florida Bar Intellectual Property Law Symposium (Tampa, March 2010).

"Surveys as Scientific Evidence: Anatomy of a Survey in Court." Presentation for the Marketing Research Council (New York, March 2010).

"Genericness Surveys in Trademark Disputes: Evolution of Species." 99 Trademark Reporter. 1118 (2009).

"Survey Evidence in Trademark and Other Intellectual Property Disputes." Presentation for a seminar and roundtable hosted by Graham and Dunn for the International Trademark Association (Seattle, January 2009).

Appendix C

Materials Considered

Materials Considered

I was provided with the complaint filed on October 2, 2018 in connection with *Catherine Alexander v. Take-Two Interactive Software, Inc., 2K Games, Inc., 2K Sports Inc., World Wrestling Entertainment, Inc., Visual Concepts Entertainment, Yuke's Co., Ltd. and Yuke's LA Inc.* (S.D. Ill., Case No. 3:18-cv-0966-MJR-DGW). The other materials that I considered are described in my report and/or included as appendices to my report.

Appendix D

Questionnaire (Sample Web Screenshots)

QUESTION S1

YouGov

We are conducting a short opinion survey for Jay Survey Strategics, an independent research firm.

What is your gender?

☐ Male

☐ Female

>

QUESTION S2
(IF S1 MATCHES GENDER IN DATABASE)

YouGov

What is your age?

Please type your answer here.

QUESTION S3
(IF S2 = 16-55 AND MATCHES AGE IN DATABASE)

YouGov

Do you agree to answer all survey questions on your own, without asking anybody else for help or referring to reference materials or the Internet?

☐ Yes, I agree


☐ No, I do not agree

>

QUESTION S4*
(IF S3 = YES, I AGREE)

YouGov

What order are these colors in? (Note, the image may take a few seconds to load.)



☐ Green, blue, red, yellow

☐ Red, yellow, green, blue

☐ Yellow, green, blue, red

☐ Green, red, blue, yellow

☐ Blue, red, green, yellow

☐ Blue, yellow, green, red

☐ None of the above

☐ Don't know

* The order of the first six answer categories was randomized across respondents.

QUESTION S5*
(IF S4 = GREEN, RED, BLUE, YELLOW)

YouGov

In the past 3 years, did you buy any of the following items?
(SELECT ALL ANSWERS THAT APPLY)

- ☐ An activity tracker
- ☐ A video game
- ☐ A camera or camcorder
- ☐ A cell phone
- ☐ A laptop or tablet
- ☐ Wireless earbuds or earphones
- ☐ A smartwatch
- ☐ A gaming headset
- ☐ None of the above
- ☐ Don't know

>

* The order of the first eight answer categories was randomized across respondents.

QUESTION S6*
(IF S5 = A VIDEO GAME)

YouGov

In the past 3 years, which of the following types of video games, if any, did you buy?
(SELECT ALL ANSWERS THAT APPLY)

☐ Music or rhythm games

☐ Role-playing games

☐ Sports games

☐ Action or adventure games

☐ None of the above

☐ Don't know

>

* The order of the first four answer categories was randomized across respondents.

QUESTION S7*
(IF S6 = SPORTS GAMES)

YouGov

In the past 3 years, which of the following types of sports video games, if any, did you buy?
(SELECT ALL ANSWERS THAT APPLY)

- ☐ Basketball
- ☐ Football
- ☐ Wrestling
- ☐ Hockey
- ☐ Baseball
- ☐ None of the above
- ☐ Don't know

>

* The order of the first five answer categories was randomized across respondents.

QUESTION S8
(IF S7 = WRESTLING)

YouGov

In the past 3 years, did you buy any of the following WWE 2K video games?
(SELECT ALL ANSWERS THAT APPLY)

- ☐ WWE 2K16
- ☐ WWE 2K17
- ☐ WWE 2K18
- ☐ None of the above
- ☐ Don't know



QUESTION S9*
(IF S8 = WWE 2K16, WWE 2K17 OR WWE 2K18)

YouGov

Do you or does anyone in your household work for any of the following types of organizations or companies?
(SELECT ALL ANSWERS THAT APPLY)

- ☐ An advertising agency or marketing research firm
- ☐ A government agency
- ☐ A video game company or video game store
- ☐ None of the above
- ☐ Don't know

>

* The order of the first three answer categories was randomized across respondents.

INSTRUCTION A
(IF S9 ≠ A VIDEO GAME COMPANY OR VIDEO GAME STORE OR
AN ADVERTISING AGENCY OR MARKETING RESEARCH FIRM)

YouGov

Our next questions are about the following WWE 2K video game(s): [WWE 2K16](#), [WWE 2K17](#), and [WWE 2K18](#)

We would like to assure you that we are only interested in your opinions and beliefs. If you do not know the answer to a question or do not have an opinion or belief, please indicate this.



QUESTION A1

YouGov

What was the main reason why you bought the following WWE 2K video game(s): [WWE 2K16](#), [WWE 2K17](#), and [WWE 2K18](#)?

(PLEASE TYPE YOUR ANSWER IN THE BOX)

☐ Don't know



QUESTION A2
(IF A1 ≠ DON'T KNOW)

YouGov

What were the other reasons, if any, why you bought the following WWE 2K video game(s): [WWE 2K16](#), [WWE 2K17](#), and [WWE 2K18](#)?

(PLEASE TYPE YOUR ANSWER IN THE BOX)

☐ Don't know

>

QUESTION B1*

YouGov

Which of the following, if any, were reason(s) why you bought the following WWE 2K video game(s): [WWE 2K16](#), [WWE 2K17](#), and [WWE 2K18](#)?
(SELECT ALL ANSWERS THAT APPLY)

- ☐ The selection of movesets
- ☐ The music
- ☐ The ease of gameplay
- ☐ The backstage action
- ☐ The fighting style options
- ☐ The price/value
- ☐ The crowd animations
- ☐ The reversal system
- ☐ The TJBD feature
- ☐ I or a family member likes wrestling
- ☐ The depiction of the wrestlers' face, body or other aspects of their appearance
- ☐ The size of the player roster
- ☐ The choice of match types
- ☐ The inclusion of wrestling legends and NXT wrestling stars
- ☐ The overall quality of the graphics
- ☐ The cut scenes
- ☐ The commentary
- ☐ The camera angles during gameplay
- ☐ The speed of gameplay
- ☐ The different arenas
- ☐ The dialogue options
- ☐ The ability to customize matches (such as win conditions or match rules)
- ☐ The depiction of the wrestlers' movements
- ☐ None of the above
- ☐ Don't know

>

* The order of the first 23 answer categories was randomized across respondents.

QUESTION B2*
(IF B1 = MORE THAN ONE ITEM)

YouGov

Which one of these was the most important reason why you bought the following WWE 2K video game(s): [WWE 2K16](#), [WWE 2K17](#), and [WWE 2K18](#)?

- ☐ I or a family member likes wrestling
- ☐ The depiction of the wrestlers' face, body or other aspects of their appearance
- ☐ The size of the player roster
- ☐ The cut scenes
- ☐ Don't know

>

* Only categories selected in B1 are displayed, in the order in which they appeared in B1. Options were selected at random for this appendix.

QUESTION B3*
(IF B1 = MORE THAN TWO ITEMS AND B2 ≠ DON'T KNOW)

YouGov

Which one of these was the next most important reason why you bought the following WWE 2K video game(s): [WWE 2K16](#), [WWE 2K17](#), and [WWE 2K18](#)?

- ☐ The depiction of the wrestlers' face, body or other aspects of their appearance
- ☐ The size of the player roster
- ☐ The cut scenes
- ☐ Don't know

>

* Only categories selected in B1 and not selected in B2 are displayed, in the order in which they appeared in B1. Options were selected at random for this appendix.

QUESTION C1
(IF B1 = DEPICTION OF THE WRESTLERS' FACE, BODY,
OR OTHER ASPECTS OF THEIR APPEARANCE)

YouGov

Was the depiction of the appearance of any particular wrestler or wrestlers a reason why you bought the following WWE 2K video game(s): [WWE 2K16](#), [WWE 2K17](#), and [WWE 2K18](#)?

☐ Yes

☐ No

☐ Don't know

>

QUESTION C2
(IF C1 = YES)

YouGov

Which wrestler or wrestlers' depiction was a reason why you bought the following WWE 2K video game(s): [WWE 2K16](#), [WWE 2K17](#), and [WWE 2K18](#)?

(PLEASE TYPE YOUR ANSWER IN THE BOX)

☐ Don't know

>

QUESTION C3
(IF C2 ≠ DON'T KNOW)

YouGov

Were there any particular features or aspects you thought were important to depict of the following wrestler or wrestlers' appearance: [Wrestler 1](#), [Wrestler 2](#)?

☐ Yes

☐ No

☐ Don't know

>

QUESTION C4
(IF C3 = YES)

YouGov

What features or aspects were important to depict of the following wrestler or wrestlers' appearance: [Wrestler 1](#), [Wrestler 2](#)?

(PLEASE TYPE YOUR ANSWER IN THE BOX)

☐ Don't know

>

CLOSING

YouGov

Thank you for your help with this survey.



Appendix E

Jay Survey Methods

Jay Survey Methods

The Jay Survey was conducted with a nationwide representative sample of individuals age 16 to 55 who had bought one or more of the following WWE 2K video games in the past 3 years: WWE 2K16, WWE 2K17, and/or WWE 2K18 (hereafter "the relevant WWE 2K video games"). Individuals age 16 to 55 were surveyed because I understand that most buyers of WWE 2K video games are in this age group. The purpose of the Jay Survey was to determine the reasons for buying the relevant WWE 2K video games and whether Randy Orton's tattoos were a reason why consumers bought these games.

A. Sampling Frame and Questionnaire

Under Jay Survey Strategics' design, direction and supervision, YouGov, a full-service market research firm, administered the Jay Survey between November 2, 2018 and November 28, 2018. The persons who were screened for eligibility and interviewed for the Jay Survey were randomly selected from two online panels that are representative of all individuals age 16 and older in the U.S.: a) the online panel maintained by YouGov and b) the online panel maintained by Research Now/SSI, another full-service market research agency. The YouGov panel includes approximately 2 million persons in the U.S., and the Research Now/SSI panel includes approximately 10 million persons in the U.S.

Each person who was randomly-selected from these panels and invited to participate in the Jay Survey was provided with a unique link to the survey, so that no person could participate in the survey more than once. The IP address and other information in the panel databases also were checked to ensure that the sample did not include duplicate respondents.

Survey Introduction and Eligibility Questions

Jay Survey Strategies developed a questionnaire for the survey to be completed online by a nationwide representative sample of individuals age 16 to 55 randomly-selected from the YouGov and Research Now/SSI online panels. The Jay Survey was introduced in the following manner:

We are conducting a short opinion survey for Jay Survey Strategies, an independent research firm.

Then, survey respondents were asked for their gender and age:

(S1) What is your gender?

(S2) What is your age?

To be eligible for the Jay Survey, a respondent had to be age 16 to 55. For validation purposes, the demographic information (the gender and age) that respondents provided in the survey was compared with the demographic information in the YouGov and Research Now/SSI panel databases. Only those survey respondents whose gender and age were consistent with the information in the panel databases were eligible to participate in the Jay Survey.¹ In other words, the demographic information was validated for 100% of the persons included in the Jay Survey.

Survey respondents with valid demographics were asked whether they would agree to complete the survey on their own:

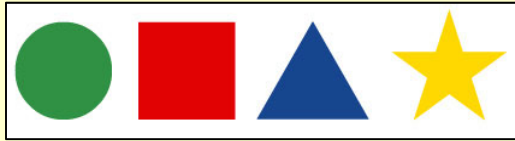
(S3) Do you agree to answer all survey questions on your own, without asking anybody else for help or referring to reference materials or the Internet?

Only those respondents who agreed to complete the survey on their own were eligible to participate in the Jay Survey.

¹ The age an individual provided in the survey was considered to be consistent if it was within two years of the age derived from the birthdate the individual provided when he/she joined the YouGov or Research Now/SSI online panel.

Next, survey respondents were asked the following question:²

(S4) What order are these colors in? (Note, the image may take a few seconds to load.)[#]



Blue, yellow, green, red
 Green, red, blue, yellow
 Blue, red, green, yellow
 Red, yellow, green, blue
 Yellow, green, blue, red
 Green, blue, red, yellow
 None of the above
 Don't know

This question was included in the survey to ensure that respondents were paying attention. Only those survey respondents who correctly indicated that the colors were "green, red, blue, yellow" were eligible to continue. Next, survey respondents were asked the following questions to determine whether they had bought a sports video game in the past 3 years:

(S5) In the past 3 years, did you buy any of the following items?[#]

An activity tracker
 A camera or camcorder
 A cell phone
 A gaming headset
 A laptop or tablet
 A smartwatch
 A video game
 Wireless earbuds or earphones
 None of the above
 Don't know

² A cross-hatch symbol (#) indicates that the order of the response categories for a question was randomized across survey respondents. For example, for this question, "Blue, yellow, green, red" was the first response category for approximately 17% of the survey respondents, the second response category for approximately 17% of the survey respondents, the third response category for approximately 17% of the survey respondents and so on.

IF VIDEO GAME:

(S6) In the past 3 years, which of the following types of video games, if any, did you buy?#

Music or rhythm games
Action or adventure games
Sports games
Role-playing games
None of the above
Don't know

Survey respondents who had bought a sports video game in the past 3 years were asked the following questions to determine whether they had bought a relevant WWE 2K video game:

(S7) In the past 3 years, which of the following types of sports video games, if any, did you buy?#

Baseball
Basketball
Football
Hockey
Wrestling
None of the above
Don't know

IF WRESTLING:

(S8) In the past 3 years, did you buy any of the following WWE 2K video games?

WWE 2K16
WWE 2K17
WWE 2K18
None of the above
Don't know

To qualify for the Jay Survey, respondents had to indicate that in the past 3 years they had bought a WWE 2K16, WWE 2K17 or WWE 2K18 video game. These survey respondents were asked one additional qualifying question:

(S9) Do you or does anyone in your household work for any of the following types of organizations or companies?#

A government agency
A video game company or video game store
An advertising agency or marketing research firm
None of the above
Don't know

Survey respondents were not eligible to participate in the Jay Survey if they said that someone in their household worked for a video game company or video game store, or for an advertising agency or marketing research firm. This is because these respondents might have special knowledge about the subject of the survey – namely, reasons for buying video games.

In all, 18,127 randomly-selected individuals age 16 to 55 were screened for eligibility, and of these, 418 individuals (2%) qualified for the Jay Survey (*i.e.*, they had bought a relevant WWE 2K video game, and they did not work for a video game company or video game store, or for an advertising agency or marketing research firm).³

Questions for Qualified Respondents

The 418 persons who qualified for the Jay Survey were told the following:

Our next questions are about the following WWE 2K video game(s): **[GAMES SELECTED IN S8]**. We would like to assure you that we are only interested in your opinions and beliefs. If you do not know the answer to a question or do not have an opinion or belief, please indicate this.

Qualified survey respondents were asked up to four sets of questions. The first set of questions collected information about the reasons why survey respondents bought the relevant WWE 2K video games and included the following open-ended questions (questions that required survey respondents to answer in their own words):

(A1) What was the main reason why you bought the following WWE 2K video game(s): **[GAMES SELECTED IN S8]**?

IF NOT "DON'T KNOW":

(A2) What were the other reasons, if any, why you bought the following WWE 2K video game(s): **[GAMES SELECTED IN S8]**?

³ The email invitations sent to randomly-selected individuals are included at the end of this appendix. Of the 18,127 individuals who responded to the email invitation to participate in the Jay Survey and were asked the eligibility questions, 17,709 did not qualify for the Jay Survey for the following reasons: a) they were not age 16 to 55 or their age or gender did not match the information in the panel databases (1,360 individuals); b) they did not agree to complete the survey on their own (118 individuals); c) they did not accurately identify the order of the colors they were shown (217 individuals); d) they had not bought a WWE 2K16, WWE 2K17, or WWE 2K18 video game in the past 3 years (15,919 individuals); or f) they or a member of their household worked for a video game company or video game store, or for an advertising agency or marketing research firm (95 individuals).

The second set of questions was "closed-ended" (the questions included response categories from which survey respondents selected their answers). This set of questions asked survey respondents about 22 possible reasons for buying a WWE 2K video game, including the depiction of the wrestlers' face, body or other aspects of their appearance. Additionally, survey respondents were asked about a fictitious feature, the "TJBD feature," which was created by randomly generating four letters.⁴ The purpose of the fictitious feature was to determine the amount of guessing or "noise" in the Jay Survey. The second set of questions was worded, as follows:

(B1) Which of the following, if any, were reason(s) why you bought the following WWE 2K video game(s): **[GAMES SELECTED IN S8]**?[#]

- I or a family member likes wrestling
- The ease of gameplay
- The speed of gameplay setting
- The size of the player roster
- The inclusion of wrestling legends and NXT wrestling stars
- The fighting style options
- The choice of match types
- The ability to customize matches (such as win conditions or match rules)
- The selection of movesets
- The reversal system
- The cut scenes
- The backstage action
- The commentary
- The dialogue options
- The music
- The depiction of the wrestlers' movements
- The depiction of the wrestlers' face, body, or other aspects of their appearance
- The overall quality of the graphics
- The camera angles during gameplay
- The crowd animations
- The different arenas
- The price/value
- The TJBD feature
- None of the above
- Don't know

⁴ WWE 2K video games do not have a "TJBD feature."

IF MORE THAN ONE REASON SELECTED:

(B2) Which one of these was the most important reason why you bought the following WWE 2K video game(s): [\[GAMES SELECTED IN S8\]](#)?

IF MORE THAN TWO REASONS SELECTED:

(B3) Which one of these was the next most important reason why you bought the following WWE 2K video game(s): [\[GAMES SELECTED IN S8\]](#)?

Survey respondents who said "the depiction of the wrestlers' face, body or other aspects of their appearance" was a reason for buying a WWE 2K video game were asked a third set of questions. The purpose of the third set of questions was to determine whether the depiction of Randy Orton's appearance was a reason for buying the relevant WWE 2K video games. This set of questions included the following items:

(C1) Was the depiction of the appearance of any particular wrestler or wrestlers a reason why you bought the following WWE 2K video game(s): [\[GAMES SELECTED IN S8\]](#)?

IF YES:

(C2) Which wrestler or wrestlers' depiction was a reason why you bought the following WWE 2K video games: [\[GAMES SELECTED IN S8\]](#)?

Survey respondents who identified one or more wrestlers in Question C2 were asked a fourth set of questions. The purpose of the fourth set of questions was to determine whether Randy Orton's tattoos were a reason why survey respondents bought the relevant WWE 2K video games. This set of questions included the following items:

(C3) Were there any particular features or aspects you thought were important to depict of the following wrestler or wrestlers' appearance: [\[WRESTLERS IDENTIFIED IN C2\]](#)?

IF YES:

(C4) What features or aspects were important to depict of the following wrestler or wrestlers' appearance: [\[WRESTLERS IDENTIFIED IN C2\]](#)?

B. Survey Administration

The Jay Survey was double-blind; neither the persons administering the survey nor the survey respondents were told a) the names of the sponsors of the survey, b) that the survey was intended to determine the reasons for buying the relevant WWE 2K video games and whether Randy Orton's tattoos were a reason for buying these games, or c) that the survey was being conducted in connection with litigation.⁵

The Jay Survey was performed according to accepted survey standards and in conformity with the guidelines discussed in the *Federal Manual for Complex Litigation*, 4th Ed. §11.493 (2004) and the *Reference Guide on Survey Research, Federal Reference Manual on Scientific Evidence*, 3rd Ed. (2011). The population for the Jay Survey was properly defined as persons age 16 to 55 who had bought a WWE 2K16, WWE 2K17, and/or WWE 2K18 video game, and the sample selected was representative of that population. The questions asked in the Jay Survey were clear and not leading. The data gathered for the Jay Survey were accurately reported, and the data were analyzed in accordance with accepted statistical principles. The Jay Survey was conducted, under my direction, by survey research professionals following proper survey procedures, and the entire process was conducted so as to ensure objectivity.

⁵ As a token of appreciation, survey participants received points worth up to \$1.00, which they can accumulate and redeem for gift cards.

C. Characteristics of Individuals Screened for Eligibility

Table E-1 compares the demographic characteristics (the region, age, gender, race, and education) of the 18,127 individuals screened for eligibility with those of all individuals age 16 to 55 in the U.S. according to data collected by the U.S. Census Bureau. As intended, the demographic characteristics of the 18,127 individuals who were screened for eligibility are similar to those of all individuals age 16 to 55 in the U.S.

Table E-1 Demographic Characteristics for All Persons Age 16 to 55 in the U.S. and for Persons Screened for Eligibility for the Jay Survey*		
	U.S. Persons Age 16 to 55	Persons Screened for Eligibility
		<i>(n = 18,127)</i>
Region		
Northeast	17%	18%
Midwest	21	21
South	38	39
West	24	22
Gender		
Male	50%	48%
Female	50	52
Age		
16 to 29	36%	36%
30 to 44	36	35
45 to 55	28	29
Race		
White	58%	63%
Other	42	37
Education		
High school or less	41%	37%
Some college (includes 2-year degree)	31	33
4-year college graduate	28	30

* Based on American Community Survey data collected by the U.S. Census Bureau and demographic information in the YouGov and Research Now/SSI panel databases.

D. Characteristics of Jay Survey Respondents

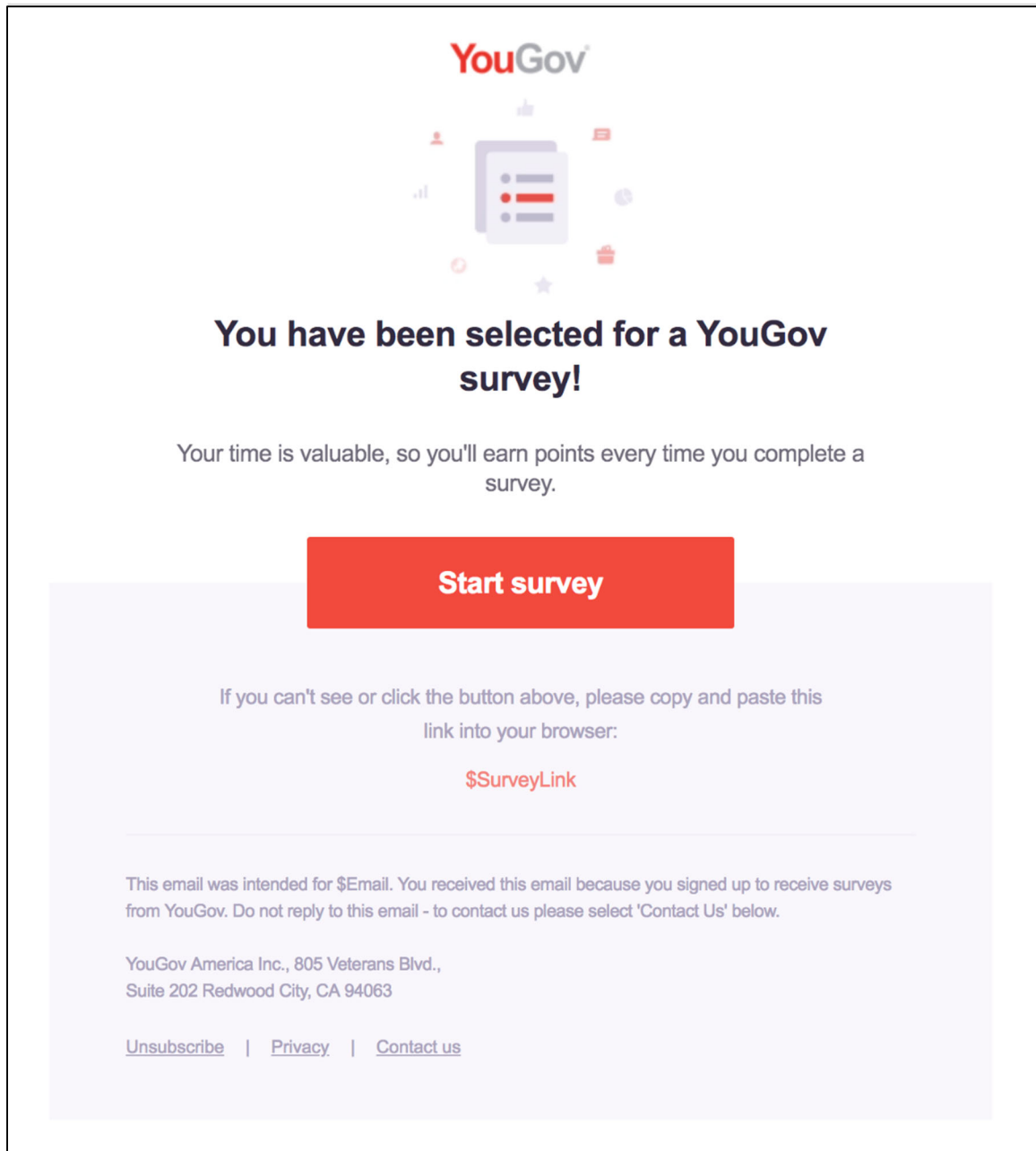
As shown in Table E-2, the 418 individuals who qualified for the Jay Survey included a greater percentage of men, relative to all individuals age 16 to 55 in the U.S. This is because men were more likely than women to have bought one or more of the relevant WWE 2K video games.

Table E-2 Demographic Characteristics for All Persons Age 16 to 55 in the U.S. and for Persons Who Qualified for the Jay Survey*		
	U.S. Persons Age 16 to 55	Jay Survey Respondents
		<i>(n = 418)</i>
Region		
Northeast	17%	21%
Midwest	21	17
South	38	42
West	24	20
Gender		
Male	50%	72%
Female	50	28
Age		
16 to 29	36%	39%
30 to 44	36	47
45 to 55	28	14
Race		
White	58%	55%
Other	42	45
Education		
High school or less	41%	37%
Some college (includes 2-year degree)	31	32
4-year college graduate	28	31

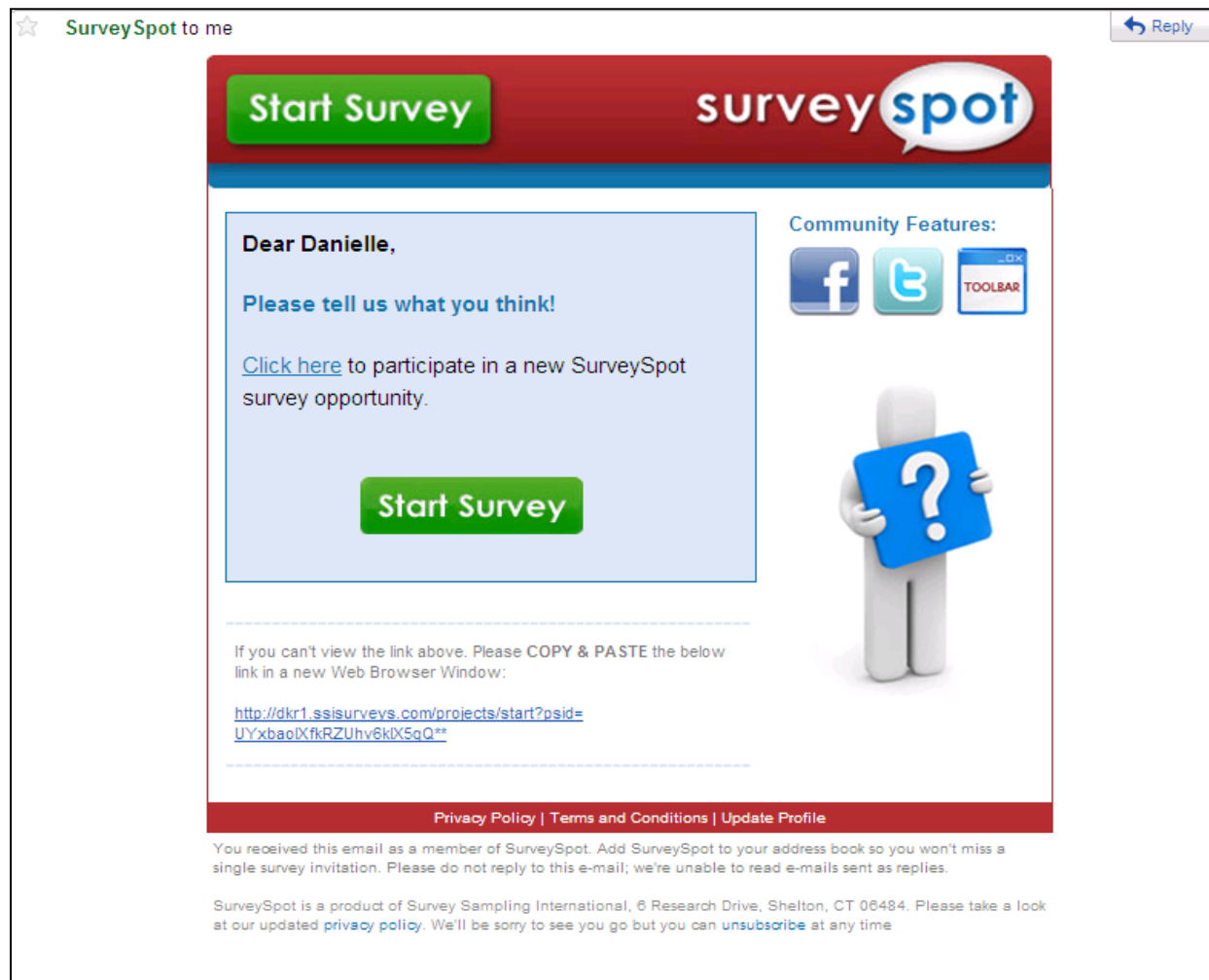
* Based on American Community Survey data collected by the U.S. Census Bureau and demographic information in the YouGov and Research Now/SSI panel databases.

Based on the overall design and execution of the Jay Survey, the survey provides representative and reliable information regarding persons age 16 to 55 who bought a WWE 2K16, WWE 2K17, and/or WWE 2K18 video game in the past 3 years.

YouGov Email Invitation



Research Now/SSI Email Invitation



Appendix F

Background Information on the YouGov Online Panel

- *YouGov Survey Procedures*
- *YouGov Answers to ESOMAR Questions*



Survey Procedures:

Information Related to the Treatment of Human Subjects

Updated on January 30, 2012

Scientific Research

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YOUgov PANEL RECRUITMENT

The YouGov panel, a proprietary opt-in survey panel, is comprised of 1.2 million U.S. residents who have agreed to participate in YouGov's Web surveys. At any given time, YouGov maintains a minimum of five recruitment campaigns based on salient current events.

Panel members are recruited by a number of methods to help ensure diversity in the panel population. Recruiting methods include Web advertising campaigns (public surveys), permission-based email campaigns, partner sponsored solicitations, telephone-to-Web recruitment (RDD based sampling, and mail-to-Web recruitment (voter registration based sampling).

The primary method of recruitment for the YouGov panel is Web advertising campaigns that target respondents based on their keyword searches. In practice, a search in Google may prompt an active YouGov advertisement inviting their opinion on the search topic. At the conclusion of the short survey respondents are invited to join the YouGov panel in order to directly receive and participate in additional surveys. After a double opt-in procedure, where respondents must confirm their consent again by responding to an email, the database checks to ensure the newly recruited panelist is in fact new and that the address information provided is valid.

Additionally, YouGov augments the panel with difficult to recruit respondents by soliciting panelists in telephone and mail surveys. For instance, in the fall and winter of 2006, YouGov completed telephone interviews using RDD sampling and invited respondents to join the online panel. Respondents provided a working email where they could receive an electronic invitation and confirm their consent and interest in receiving and participating in YouGov Web surveys. YouGov also employed registration based sampling, inviting respondents to complete a pre-election survey online. At the conclusion of that survey, respondents were invited to become YouGov members and receive additional survey invitations to their email address. YouGov also conducted telephone-to-Web recruitment in the fall and winter of 2010.

By utilizing different modes of recruitment continuously over time, this ensures that hard-to-reach populations will be adequately represented in survey samples. Participants are not paid to join the YouGov panel, but do receive incentives through a loyalty program to take individual surveys.

YG PRIVACY AND CONSENT STATEMENT

The information below is provided to each respondent when they provide their contact information and indicate they would like to receive survey invitations from YouGov.

Consent Statement

YouGov invites people to complete self-administered surveys via the web using a panel of respondents. Panelists are provided the privacy policy below when they voluntarily sign up and are provided a link to this with each study request. Specifically, each invitation states that their participation is voluntary and confidential.

Our detailed privacy policy is elaborated at <http://today.yougov.com/privacy/>, see below.

Privacy Policy

Effective as of March 1, 2011.

The most recent update to the privacy policy changed our company name from YouGovPolimetrix to YouGov. Some other clarifications of policy were also made.

The YouGov website is operated by YouGov, a non-partisan polling firm headquartered in Palo Alto, California and one of the YouGov companies. YouGov is committed to answering important political and social questions and YouGov is designed to give people a chance to share their opinions about those important topics.

The information our users provide is absolutely confidential. When a user registers for the panel, we ask a few basic questions to verify demographic information (e.g., age, gender, state). We do not sell or disclose this personal information to anyone at any time, except under limited conditions as specifically noted below, though we may report the information in aggregate form (e.g., "65 percent of those aged 55 and older reported a high level of interest in the president's State of the Union address.")

About This Privacy Policy

YouGov respects the privacy of all of its respondents. This Privacy Policy outlines what personally identifiable information is collected, how the information is used, with whom the information may be shared, and the security procedures in place to protect the loss, misuse, or alteration of information under our control. We reserve the right to modify this privacy statement at any time, so please review it frequently. If we make material changes to this policy, we will notify you here.

Non-Personal Information We Collect

To register with YouGov, we require respondents to submit Personally Identifiable Information. Respondents are responsible for ensuring the accuracy of the Personally Identifiable Information they submit to YouGov.

Without registration to the YouGov panel, the only information we may collect is Non-Personal Information through the use of Cookies or Web Beacons.

As is true of most websites, we gather certain information automatically and store it in log files. This information includes internet protocol (IP) addresses, browser type, internet service provider (ISP), referring/exit pages, operating system, date/time stamp, and clickstream data. We use this information, which does not identify individual users, to analyze trends, administer the site, track users' movements around the site and gather demographic information about our user base as a whole.

A. Cookies

The information collected by Cookies allows us to monitor how many people are using our website, how many people open our e-mails, and determine for what purposes these actions are being taken. Cookies are also used to facilitate a user's log-in, as navigation aides, and as session timers, but not to retain Personal Information. Cookies used by YouGov are also used to restrict underage use of the tools. Most browsers offer instructions on how to reset the browser to reject Cookies in the "Help" section of the toolbar. We do not link Non-Personal Information from Cookies to Personally Identifiable Information without permission, and do not use Cookies to collect or store Personal Information.

B. Web Beacons

We also may use Web Beacons to collect Non-Personal Information about the use of our website. The information collected by Web Beacons allows us to monitor how many people are using our website, how many people open our e-mails, and determine for what purposes these actions are being taken. Our Web Beacons are not used to track activity outside of our websites. We do not link Non-Personal Information from Web Beacons to Personally Identifiable Information without permission and do not use Web Beacons to collect or store Personal Information.

Personally Identifiable Information We Collect

A. Registration

We collect Personally Identifiable Information, such as name, mailing address and e-mail address, that our members provide to us when they register as YouGov panelists. We use the Personally Identifiable Information to gather opinions on important topics, answer questions, send e-mails about website maintenance and updates, place panelists in the correct regional and political jurisdictions (e.g. the correct congressional district or voting precinct), and inform panelists of significant changes to this Privacy Policy.

B. E-mails You Send to YouGov

This Privacy Policy does not protect you when you send content, business information, ideas, concepts or inventions to YouGov or YouGov by e-mail. If you want to keep content or business information, ideas, concepts or inventions private or proprietary, do not send them in an e-mail.

C. Children

We are committed to protecting the privacy of children. YouGov is not designed or intended to attract children under the age of 18. We do not collect Personally Identifiable Information from any person we actually know is under the age of 14.

D. Surveys – Personally Identifiable Information

When participating in a survey, we may ask panelists to submit Personally Identifiable Information. This Personally Identifiable Information is used for research purposes, and is not used for sales solicitations. When a survey is sponsored by a third party, Aggregate Information of the survey results is reported to the sponsor. Personally Identifiable Information collected through surveys will be used only by YouGov and its operations contractors, and will not be given or sold to a third party without the panelist's consent. You will never receive email from any third party as a result of using the YouGov site, participating in YouGov research activities or becoming a YouGov panel member, unless you specifically opt to do so.

E. Surveys – Responses

Aside from personally identifiable information, YouGov may, in the course of interacting with panel members, gather other types of information ("Operating Information"). YouGov panelists receive survey invitations periodically (weekly or monthly, for example) depending on their stated preferences. These surveys will ask questions about opinions and attitudes toward current affairs.

Disclosure of Information

Except as set forth in this Privacy Policy or as specifically agreed to by you, YouGov will not disclose any Personally Identifiable or Personal information gathered on our websites. We will only release Personally Identifiable or Personal information to third parties: (1) to comply with valid legal requirements such as a law, regulation, search warrant, subpoena or court order; (2) to reduce fraud or criminal activity; (3) to protect the legal rights of YouGov, our customers, our Websites, or the users of our Websites; (4) to allow a purchaser of a YouGov division, or YouGov as a whole, to continue using your information to serve you or as otherwise permitted by this Privacy Statement; or (5) in special cases, such as a physical threat to you or others. In the event that we are legally compelled to disclose Personally Identifiable or Personal information to a third party, we will attempt to notify you unless doing so would violate the law or court order. In addition, we may disclose Personal Information as described below.

A. Aggregate Data

YouGov may provide Aggregate Information to third parties. For example, we might inform third parties regarding the number of users of our website and the activities they conduct while on our site. We might also inform an interested policy group that "30% of our users live east of the Mississippi" or that "25% of our users have registered to vote online." Depending on the circumstances, we may or may not charge third parties for this Aggregate Information. We require parties with whom we share Aggregate Information to agree that they will not attempt to make this information personally identifiable, such as by combining it with other databases.

B. Disclosure to YouGov Operations and Maintenance Contractors

YouGov operations and maintenance contractors sometimes have limited access to Personally Identifiable Information in the course of providing products or services to YouGov. These contractors include vendors and suppliers that provide us with technology, services, or external data or other content. Access to Personally Identifiable Information by these contractors is limited to the information reasonably necessary for the contractor to perform its limited function for YouGov. We also contractually require that our operations and maintenance contractors 1) protect the privacy of Personally Identifiable Information consistent with this Privacy Policy, and 2) not use or disclose Personally Identifiable Information for any purpose other than providing us with products and services.

Data Security and Responsibility

Your Personal Information, Demographic Information, and Operating Information will generally be stored in our YouGov databases, which are located in the United States. YouGov uses firewalls to protect information held in our servers, and requires all employees to abide by our Privacy Policy and be subject to disciplinary action if they violate it. YouGov also backs up our systems to protect the integrity of the Personally Identifiable and Personal information we collect.

Despite our efforts to protect the Personally Identifiable Information and Personal information of our panelists, there is always some risk that an unauthorized third party may find a way around our security systems or that transmissions of information over the Internet will be intercepted. However, YouGov will always be vigilant in minimizing such risk to the best of our ability.

PROTECTION OF HUMAN SUBJECTS

YouGov works with the Western IRB to ensure its research protocol and specific studies are consistent with Good Clinical Practices as defined under the U.S. Food and Drug Administration (FDA) regulations and the International Conference on Harmonisation (ICH) guidelines.

Additionally, the YouGov research protocol has been reviewed and approved for Federalwide Assurance (FWA) by the Department of Health and Human Services (DHHS). The FWA number assigned to YouGov, Inc., is FWA00010960. YouGov's FWA approval is listed on the Department of Health and Human Services website at <http://ohrp.cit.nih.gov/search/search.aspx>. Funding agencies may use this website to verify that YouGov holds an active OHRP-approved FWA. The expiration date for our FWA renewal is 10/13/2016.

All members of the Scientific Research team have IRB training.

HOSTING FACILITIES

YouGov hosts its servers at the Equinix data center facility in Palo Alto (PAIX) which provides us with highly-available, high performance, mission critical Internet access. This facility has redundant backup power generators and uninterruptible power systems, along with high speed fiber links to multiple carriers. YouGov purchases "clear-channel" private Internet connectivity to avoid network congestion. In addition to multiple connections to the major Tier 1 Internet backbones like Level 3 and Williams Communications, our Web hosting facility also maintains fiber connectivity to InterNAP. InterNAP utilizes a proprietary network architecture and advanced routing technologies, which enables them to route data to and from destinations in a manner that minimizes the use of congested public exchanges and private peering points. This routing enables higher transmission speeds and lower instances of data packet loss. Our facilities are provisioned with the connectivity and dynamic bandwidth scalability needed to handle high-bandwidth applications, traffic spikes, and network outage issues. Access to the facility is by appointment, confirmed by credentials and secure passcode. The YouGov servers are housed in dedicated racks with locked doors that can only be accessed by authorized YouGov personnel. PAIX is SAS-70 certified.

DATA SECURITY AND RESPONSIBILITY

YouGov uses software-based firewalls, a DMZ, and multiple VLANs to secure external access to our servers and internal networks. Additional multi-layer software controls protect the integrity of the personally identifying and other confidential respondent information. Databases are backed up continuously; all other information is backed up daily. The back-up system has been documented and data retrievals from the back-up system have been tested for integrity.

Access to confidential respondent information is limited to authorized users in the company's survey and information services groups and is password protected. Access rights can be changed at any time by the CTO and password security is strictly enforced. YouGov has not experienced any known security breaches since inception and regularly audits its security procedures.

YouGov Incentives

YouGov manages an incentive program as a thank you for respondent participation. Survey respondents are awarded "PollingPoints" that are redeemable for the following small gifts:

Points	Reward
17,500	YouGov Tote Bag
20,000	YouGov T-Shirt
25,000	Restaurant.com \$25 Gift Certificate
30,000	Two Movie Tickets – AMC Theaters
30,000	Two Movie Tickets – Regal Entertainment Group Theaters
30,000	Two Movie Tickets – Cinemark Theaters
35,000	Darden Restaurants \$20 Gift Card
45,000	Diningdough.com \$25 Gift Certificate and 2 Fandango. com Movie Tickets
50,000	Web Camera – Microsoft LifeCam VX
60,000	Diningdough.com \$50 Gift Certificate and 2 Fandango.com Movie Tickets
70,000	Darden Restaurants \$50 Gift Card
80,000	iPod Shuffle
100,000	\$100

Each panelist receives between 500 and 5,000 points to complete a survey. As a policy, panelists who are invited to a particular survey but then identified as ineligible are provided incentives to remove the motivation for falsifying information. In general, survey reward policies and incentives are intended to be unattractive to professional survey takers but serve as a genuine token of appreciation for YouGov panelists.

EXAMPLE OF YG SURVEY INVITATION



Dear <NAME>,

You have been selected to share your opinions in a new YouGov survey.

To get started please click the button below. If you cannot view or click on the button, please copy and paste this address into your browser:

<Survey link>

<Start Now>

We know your time is valuable, and as a way of showing our thanks, you will be awarded at least 500 points when you complete this survey, and every emailed YouGov survey. The longer the survey, the more points you earn.

Notice our new name and look? Although the PollingPoint name is gone, rest assured that the heart of PollingPoint remains at YouGov. Your current points remain the same, and you'll continue to earn points for new surveys the same as before.

Thank for being an active member of the YouGov community!

Kelly Connor

YouGov

For more information on YouGov visit <http://today.yougov.com>. If you have any questions please read our membership rules and Privacy Policy.

To ensure reliable delivery please add help.us@yougov.com to your address book.

This email was intended for <name>@yougov.com. YouGov does not send unsolicited emails. You received this message because you signed up to receive polls from us. If you received this message in error or no longer wish to participate, please use the following link to unsubscribe: <https://isurvey-us.yougov.com/unsubscribe/>

Comments or concerns? Email help.us@yougov.com, or write to:

YouGov • 285 Hamilton Avenue, Suite 200 • Palo Alto, CA 94301

FREQUENTLY ASKED QUESTIONS ON DATA SECURITY

How do we prevent one person from completing surveys multiple times?
Once a respondent completes a survey the "visa" assigned to that person is invalidated so the survey cannot be taken again.

Who will be maintaining the YouGov web site/servers?
YouGov staff maintains the servers and web sites.

Who will have access to the data collected & back-up files?
VP of Survey Operations and Statistical Analyst; Systems Administrators; and potentially the lead software developers under a need to know basis.

Are the data stored while the respondent is answering questions or is that data only stored at the end when the survey is submitted?
The answers are stored each time a user submits a page.

How is confidentiality maintained during the transmission of data?
No identifying personal information is transmitted while the survey is taken. The responses are identified only by an unique, coded "visa" that can be linked with the respondent's personal information only on the database server behind our firewall in a secure local zone.

Does YouGov monitor web sites visitation and e-mails?
Internet access to ports is firewall limited. Off-site e-mail access is over SSL connections. Security logs are monitored for inappropriate activity.

When the subject submits their data to the web server information about the subject is of attached (IP address etc.); how will information be protected?
Once acquired, respondents' data is only transmitted over internal networks behind firewalls or over encrypted VPN connections. Personally identifying information is not transmitted or stored together with survey answers.



ESOMAR 28

28 QUESTIONS TO HELP ONLINE RESEARCH BUYERS



The primary aim of these 28 Questions is to increase transparency and raise awareness of the key issues for researchers to consider when deciding whether an online sampling approach is fit for their purpose. Put another way, the aim is to help researchers to ensure that what they receive meets their expectations. The questions are also designed to introduce consistent terminology for providers to state how they maintain quality, to enable buyers to compare the services of different sample suppliers. Notes on the context of the questions explain why the questions should be asked and which issues researchers should expect to be covered in the answer.

These new questions replace ESOMAR's "26 Questions to help Research Buyers of Online Samples". ESOMAR has updated the text to recognize the ongoing development of techniques. While some of the questions remain constant, new questions have been added to incorporate new techniques and new technology in this area. In particular, this revision recognises the broad trend within the industry to build online samples from multiple sources rather than relying on a single panel.

It should be noted that these 28 Questions focus on the questions that need to be asked by those buying online samples. If the sample provider is also hosting the data collection you will need to ask additional questions to ensure that your project is carried out in a way that satisfies your quality requirements.

The 28 Questions complement ESOMAR's Guideline to Online Research which was revised in 2011 to add updated legal and ethical guidance and new sections on privacy notices, cookies, downloadable technology, and interactive mobile.

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COMPANY PROFILE

1. What experience does your company have in providing online samples for market research?

Context: This answer might help you to form an opinion about the relevant experience of the sample provider. How long has the sample provider been providing this service and do they have for example a market research, direct marketing or more technological background? Are the samples solely provided for third party research, or does the company also conduct proprietary work using their panels?

YouGov is an international, full-service online market research agency offering custom research, omnibus, field and tab services, qualitative research, syndicated products and market intelligence reports. Our mission is to supply a continuous, live stream of data and insight into what people are thinking and doing all over the world, so that companies, governments and institutions can better serve the people that sustain them.

Founded in the UK in 2000, YouGov is considered the pioneer of online market research. With our global panel of more than 3 million respondents, and offices in the United Kingdom, the United States, Europe and the Middle East, we offer our clients international results faster and more cost-effectively than traditional methods, with no compromise on quality.

SAMPLE SOURCES AND RECRUITMENT

2. Please describe and explain the type(s) of online sample sources from which you get respondents. Are these databases? Actively managed research panels? Direct marketing lists? Social networks? Web intercept (also known as river) samples?

Context: The description of the types of sources a provider uses for delivering an online sample will provide insight into the quality of the sample.

YouGov maintains a highly engaged panel of respondents who have specifically opted in to participate in online research activities.

The value of our panel, as opposed to many other types of online sample sources, lies in having continuous access to a responsive audience ready-profiled on important demographic, attitudinal and lifestyle attributes. This enables us to execute a wide range of projects, from nationally representative samples to re-contact surveys with hard-to-find audiences.

3. If you provide samples from more than one source: How are the different sample sources blended together to ensure validity? How can this be replicated over time to provide reliability? How do you deal with the possibility of duplication of respondents across sources?

Context: The variation in data coming from different sources has been well documented. Overlap between different panel providers can be significant in some cases and de-duplication removes this source of error, and frustration for respondents.

Due to the size and strength of our own panel, YouGov does not often require additional sample. When we do include samples from external providers, it is only with the prior approval of our clients, and we will only use pre-identified partners who work to our approved standards. In such cases, our technology allows us to detect users taking the same survey with other providers, so we can remove them from the data as required.



4. Are your sample source(s) used solely for market research? If not, what other purposes are they used for?

Context: Combining respondents from sources set up primarily for different purposes (like direct marketing for example) may cause undesirable survey effects.

The YouGov panel is used solely for market research.

5. How do you source groups that may be hard to reach on the internet?

Context: Ensuring the inclusion of hard-to-reach groups on the internet (like ethnic minority groups, young people, seniors etc.) may increase population coverage and improve the quality of the sample provided.

YouGov actively recruits hard-to-reach respondents (such as younger people and those from ethnic minorities) via a network of partners with access to a wide range of online sources that cater to these groups. These sources have specific experience in recruiting these audiences for online activities.

These recruitment programmes include search engine optimization (SEO), affiliate networks, niche websites, and refer-a-friend programmes.

All recruitment sources, for hard-to-reach audiences or anyone else, are monitored to ensure that respondents are profiled, responsive, and engaged in the survey-taking experience.

6. If, on a particular project, you need to supplement your sample(s) with sample(s) from other providers, how do you select those partners? Is it your policy to notify a client in advance when using a third party provider?

Context: Many providers work with third parties. This means that the quality of the sample is also dependent on the quality of sample providers that the buyer did not select. Transparency is essential in this situation. Overlap between different providers can be significant in some cases and de-duplication removes this source of error, and frustration for respondents. Providers who observe process standards like the ISO standards are required to give you this information.

As noted above, we rarely need to supplement our sample with that from other sources. On those occasions when external sample is required, we always notify the client so that they can take part in the decision about when and how to proceed with a different supplier.

External sample partners are chosen by their ability to target hard-to-reach audiences, and by the quality and timeliness of their work. Our technology allows us to detect users taking the same survey with other providers, and thus avoid duplicate responders.

SAMPLING AND PROJECT MANAGEMENT

7. What steps do you take to achieve a representative sample of the target population?

Context: The sampling processes (i.e. how individuals are selected or allocated from the sample sources) used are the main factor in sample provision. A systematic approach based on market research fundamentals may increase sample quality.

Using YouGov's proprietary sampling technology, we begin by framing quotas based upon the census or profile of the required population. This frame is the basis on which our sampling software controls the flow of members into each survey.

Our sampling system will randomly select from our available panel, and allocate to surveys according to the quotas set.

8. Do you employ a survey router?

Context: A survey router is a software system that allocates willing respondents to surveys for which they are likely to qualify. Respondents will have been directed to the router for different reasons, perhaps after not qualifying for another survey in which they had been directly invited to participate, or maybe as a result of a general invitation from the router itself. There is no consensus at present about whether and how the use of a router affects the responses that individuals give to survey questions.

YouGov's proprietary sampling software includes a router. This removes the potential for self-selection on surveys, and increases our ability to deliver lower incidence samples within a short time frame.



9. If you use a router: Please describe the allocation process within your router. How do you decide which surveys might be considered for a respondent? On what priority basis are respondents allocated to surveys?

Context: Biases of varying severity may arise from the prioritisation in choices of surveys to present to respondents and the method of allocation.

Panellists receive an invitation email containing a survey link. When they access the link the router will check against quotas on all live surveys and allocate them to a survey for which they qualify. We can manually control prioritisation (for example to ensure that a particularly urgent client survey can meet quotas in the necessary time frame), but allocation is predominantly determined by the quotas defined in the frame for each survey.

If, following more detailed screening, a respondent doesn't qualify for the survey to which they are allocated they will be returned to the router and allocated to another survey.

10. If you use a router: What measures do you take to guard against, or mitigate, any bias arising from employing a router? How do you measure and report any bias?

Context: If Person A is allocated to Survey X on the basis of some characteristic then they may not be allowed to also do Survey Y. The sample for Survey Y is potentially biased by the absence of people like Person A.

In any case where we consider there could be a potential for bias resulting from use of a router, we will revert to a manual invitation process. All surveys running on the router will have sampling controls on all variables likely to affect the results.

11. If you use a router: Who in your company sets the parameters of the router? Is it a dedicated team or individual project managers?

Context: It may be necessary to try to replicate your project in the future with as many of the parameters as possible set to the same values. How difficult or easy will this be?

All parameters are set and controlled by the panel team within our Operations department. These are only changed following explicit consultation with all affected parties.

12. What profiling data is held on respondents? How is it done? How does this differ across sample sources? How is it kept up-to-date? If no relevant profiling data is held, how are low incidence projects dealt with?

Context: The usefulness to your project of pre-profiled information will depend on the precise question asked and may also depend on when it was asked. If real time profiling is used, what control do you have over what question is actually asked?

We collect over 500 data points on panellists through the initial opt-in process, in ongoing profiling efforts, and from survey responses. Basic profile information is stored for all panellists, with less frequently used attributes covered to varying degrees. Collection of this long tail of opinion and behavioural data is typically driven by client demand.

Beyond this, we have a proprietary system that automatically updates panellist demographics from survey data (typically every 3-6 months) depending on the relative frequency with which particular data points are likely to change.

13. Please describe your survey invitation process. What is the proposition that people are offered to take part in individual surveys? What information about the project itself is given in the process? Apart from direct invitations to specific surveys (or to a router), what other means of invitation to surveys are respondents exposed to? You should note that not all invitations to participate take the form of emails.

Context: The type of proposition (and associated rewards) could influence the type of people who agree to take part in specific projects and can therefore influence sample quality. The level of detail given about the project may also influence response.

In the majority of cases, respondents are emailed a generic survey invitation, whether invited directly to a study or via a router. Once they are allocated to a particular survey and have passed any additional screening, they are immediately informed of the topic, estimated length and their reward for taking part.

For qualitative studies respondents are given more information in the invitation itself on the topic and nature of the survey, and the amount of time they will have to make available to participate.



14. Please describe the incentives that respondents are offered for taking part in your surveys. How does this differ by sample source, by interview length, by respondent characteristics?

Context: The reward or incentive system may impact on the reasons why people participate in a specific project and these effects can cause bias to the sample.

Panelists are typically motivated by two things:

- Points for completing a survey (i.e., rewards)
- Understanding the impact of their contribution (i.e., "having their say")

YouGov's incentive programme is points-based. Point values are determined by survey length and are allocated upon survey completion. Respondents accumulate points for completing surveys and are able to redeem these either for entries into prize draws with a wide range of prizes or towards a cash payment.

In addition, we also share key survey results and actual data from selected surveys, and are constantly developing ways to enhance this feedback loop. Results are posted on the panellist areas of the website, and regular newsletters are used to highlight media coverage of YouGov survey results.

15. What information about a project do you need in order to give an accurate estimate of feasibility using your own resources?

Context: The "size" of any panel or source may not necessarily be an accurate indicator that your specific project can be completed or completed within your desired time frame.

The information we need stems from the client's requirements:

- Who do they wish to survey, in terms of demographics, behaviours and/or attributes? This will enable us to estimate incidence and develop quotas.
- What do they want to know? This will enable us to design the survey(s) to meet their needs and understand the length and nature of the survey(s) we will be running.
- When do they want to know it? Defining an end date will allow us to manage the client's survey(s) as part of the suite of fieldwork we are running, to ensure optimum response.

16. Do you measure respondent satisfaction? Is this information made available to clients?

Context: Respondent satisfaction may be an indicator of willingness to take future surveys. Respondent reactions to your survey from self-reported feedback or from an analysis of suspend points might be very valuable to help understand survey results.

YouGov asks for satisfaction scores from every panellist at the end of a survey experience, both explicit (using five specific questions) and implicit (using response metadata). These data are used internally to evaluate and improve the YouGov experience for panellists.

YouGov also carries out its own research on research, exploring in more detail what makes for a good respondent experience, identifying drivers of – and developing solutions for – respondent fatigue.

17. What information do you provide to debrief your client after the project has finished?

Context: One should expect a full sample provider debrief report, including gross sample, start rate, participation rate, drop-out rate, the invitation/contact text, a description of the field work process, and so on. Sample providers should be able to list the standard reports and metrics that they make available.

Upon request, we will happily provide clients with disposition reports that contain email metrics (such as start and completion rates, and so on), invitation examples, and any other details relating to the project fielding.



DATA QUALITY AND VALIDATION

18. Who is responsible for data quality checks? If it is you, do you have in place procedures to reduce or eliminate undesired within survey behaviours, such as (a) random responding, (b) illogical or inconsistent responding, (c) overuse of item non-response (e.g. "Don't Know") or (d) speeding (too rapid survey completion)? Please describe these procedures.

Context: The use of such procedures may increase the reliability and validity of the survey data.

We have several techniques available to us to ensure that clients receive the highest quality data on which to base analysis. Specifically, we have mechanisms to identify and remove:

- Speeders
- Those that fail trap questions
- Habitual non-responders

The suite of quality checks will be defined with the client at the start of a project to ensure they align with any existing quality standards. In addition to removing fraudulent responses from the survey data, those panellists that fail these tests are marked in the database and ultimately removed from the panel should they turn out to be consistent offenders.

19. How often can the same individual be contacted to take part in a survey within a specified period whether they respond to the contact or not? How does this vary across your sample sources?

Context: Over solicitation may have an impact on respondent engagement or on self-selection and non-response bias.

On average, panellists complete a survey no more than once per week, a threshold that ensures continued engagement without over-burdening panellists with too many surveys.

We monitor and control the number and frequency of invitations and completions both at an overall level and within subject areas.

20. How often can the same individual take part in a survey within a specified period? How does this vary across your sample sources? How do you manage this within categories and/or time periods?

Context: Frequency of survey participation may increase the risk of undesirable conditioning effects or other potential biases.

Controls are set on a study-by-study basis. We can control to whom invitations are sent based on previous studies they have completed, and within whatever time frame is specified.

21. Do you maintain individual level data such as recent participation history, date of entry, source, etc., on your survey respondents? Are you able to supply your client with a project analysis of such individual level data?

Context: This type of data per respondent including how the total population is defined and how the sample was selected and drawn, may increase the possibilities for analysis of data quality.

Though not generally relevant to clients, we do store additional data on the effectiveness of our recruiting partners. We can evaluate the quality of a source by understanding the longevity, response frequency, and participation history at an individual and source level.



22. Do you have a confirmation of respondent identity procedure? Do you have procedures to detect fraudulent respondents? Please describe these procedures as they are implemented at sample source registration and/or at the point of entry to a survey or router. If you offer B2B samples what are the procedures there, if any?

Context: Confirmation of identity can increase quality by decreasing multiple entries, fraudulent panellists etc.

YouGov applies a number of checks to ensure the quality of survey data, including, for example, trap questions that test panellist responses against pre-collected demographic data.

The suite of quality checks available allow us to detect fraudulent responses as well as duplicate respondents, and where panellists fail quality checks they are marked in the database as suspect and are removed from the panel if they turn out to be consistent offenders.

POLICIES AND COMPLIANCE

23. Please describe the 'opt-in for market research' processes for all your online sample sources.

Context: The opt-in process indicates the respondents' relationship with the sample source provider. The market generally makes a distinction between single and double opt-in. Double opt-in refers to the process by which a check is made to confirm that the person joining a panel or database wishes to be a member and understands what to expect (in advance of participating in an actual survey for a paying client).

YouGov uses a double opt-in procedure across all panels. At the point of the first opt-in panellists are asked to confirm they are happy to accept the Terms and Conditions of membership. Only once they've agreed to these will they be sent a confirmation email and a link to double opt-in and activate their panellist account.

24. Please provide a link to your Privacy Policy. How is your Privacy Policy provided to your respondents?

Context: Not complying with local and international privacy laws might mean the sample provider is operating illegally. An example privacy policy is given in the ESOMAR Guideline for Online Research.

YouGov takes data protection and panellist privacy very seriously. Our Privacy Policy can be found at <http://www.yougov.co.uk/privacy-policy> and covers key topics including:

- Use of personally identifiable information
- Disclosure of information
- Data security



25. Please describe the measures you take to ensure data protection and data security.

Context: The sample provider usually stores sensitive and confidential information on panellists and clients in databases. These data need to be properly secured and backed-up, as does any confidential information provided by the client. The sample provider should be able to provide you with the latest date at which their security has been evaluated by a credible third-party.

All panellist data, personally identifiable or otherwise, is stored on UK-based servers that are maintained behind secure firewalls, IDS and Threat Management appliances and located in a site that is certified to the latest ISO standard (ISO/IEC 27001:2005). Personally identifiable information is stored separately from all profile data as a means of further securing panellist data.

Access to the data is limited to only those with direct responsibility for panel management and maintenance. In addition, all employees are required to abide by our Privacy Policy and are subject to disciplinary action if it is violated.

26. What practices do you follow to decide whether online research should be used to present commercially sensitive client data or materials to survey respondents?

Context: There are no foolproof methods for protecting audio, video, still images or concept descriptions in online surveys. In today's social media world, clients should be aware that the combination of technology solutions and respondent confidentiality agreements are "speed bumps" that mitigate but cannot guarantee that a client's stimuli will not be shared or described in social media.

Though there are no flawless methods of protecting in-survey content, YouGov can offer both general and specific protection to web-based client material. First, all YouGov panellists are subject to clear restrictions on the re-use of material by virtue of their agreement to our Terms and Conditions (see <http://yougov.co.uk/panel/terms-and-conditions/>). Second, to augment this general protection, YouGov can limit the lifetime of any link to audio, video and other content, such that it expires after a certain period of time, and cannot thereafter be accessed.

27. Are you certified to any specific quality system? If so, which one(s)?

Context: Being certified may require the supplier to perform tasks in a pre-determined manner and document procedures that should be followed.

YouGov's third party data centre provider is certified to the following standards, providing industry-approved protection to all YouGov data:

- ISO 9001:2008
- ISO/IEC 27001:2005
- Payment Card Industry Data Security Standard v2.0
- Member of the British Polling Council

28. Do you conduct online surveys with children and young people? If so, do you adhere to the standards that ESOMAR provides? What other rules or standards, for example COPPA in the United States, do you comply with?

Context: The ICC/ESOMAR International Code requires special permissions for interviewing children. These are described in the ESOMAR Online Research Guideline. In the USA researchers must adhere to the requirements of the Children's Online Privacy Act (COPPA). Further information on legislation and codes of practice can be found in Section 6 of ESOMAR's Guideline for Online Research.

Panel registration is limited to those over 16 years of age, in line with MRS guidelines.

In cases where our research seeks to understand the views of those under the age of 16, YouGov seeks permission from the parent or guardian when screening our own panellists, and ensure all contact is via the parent or guardian and that they are fully aware of the nature of the research at all times.



GUIDANCE ON PROFESSIONAL STANDARDS

Maintaining consumer trust is integral to effective market, social and opinion research. ESOMAR through its codes and guidelines promotes the highest ethical and professional standards for researchers around the world.

The ICC/ESOMAR Code on Market and Social Research, which was developed jointly with the International Chamber of Commerce, sets out global fundamentals for self-regulation for researchers. It has been undersigned by all ESOMAR members and adopted or endorsed by more than 60 national market research associations worldwide.

The ESOMAR Guideline on Guideline on Online Research is of particular relevance to researchers using online panels and should be read in conjunction with these questions for more explanation of the legal and professional responsibilities of researchers who are collecting and analysing online research data.

In addition, ESOMAR has issued the following guidelines to provide more detailed advice on how to address the legal, ethical, and practical considerations of conducting specific areas of research:

- Guideline on Social media research
- Guideline for Conducting mobile research
- Guideline on Online research
- Guideline on Distinguishing market research from other data collection activities
- Guideline on Passive data collection, observation and recording
- Guideline on Interviewing children and young people
- Guideline on Customer satisfaction studies
- Guideline on Mystery shopping
- Guideline on How to commission research
- ESOMAR/WAPOR Guide to opinion polls

There are also two ISO standards which relate to market research:

ISO Standard 26362 – Access panels in market, opinion and social research - Vocabulary and service requirements

ISO 20252 - Market, opinion and social research - Vocabulary and service requirements

These documents contain useful definitions and explain process quality standards for access panels and research projects. They explain good practice and the information that should be provided to clients. They can be purchased from the International Standards Organisation <http://www.iso.org/iso/home.html>

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Appendix G

Background Information on the Research Now/SSI Online Panel

- *Research Now/SSI Panel Book*
- *Research Now/SSI Answers to ESOMAR Questions*



Research Now® Panel Book

Leading Digital Data Collection Worldwide

Who is Research Now?

As the established expert in digital market research data, Research Now optimizes market research through its data assets, innovative solutions, and consultative services to drive better business decisions and results for companies and agencies around the world. Founded in 1999, we were pioneers in originating online data sampling and created the first B2B panel, and continue to provide robust research data through rigorous first-party consumer and B2B data collection for more than 3,000 clients worldwide. As a trusted provider of comprehensive research services and data solutions – such as survey programming and optimizing sampling, and feature-rich automated research, integrated data, and advertising measurement – we enable powerful insights for competitive advantage.

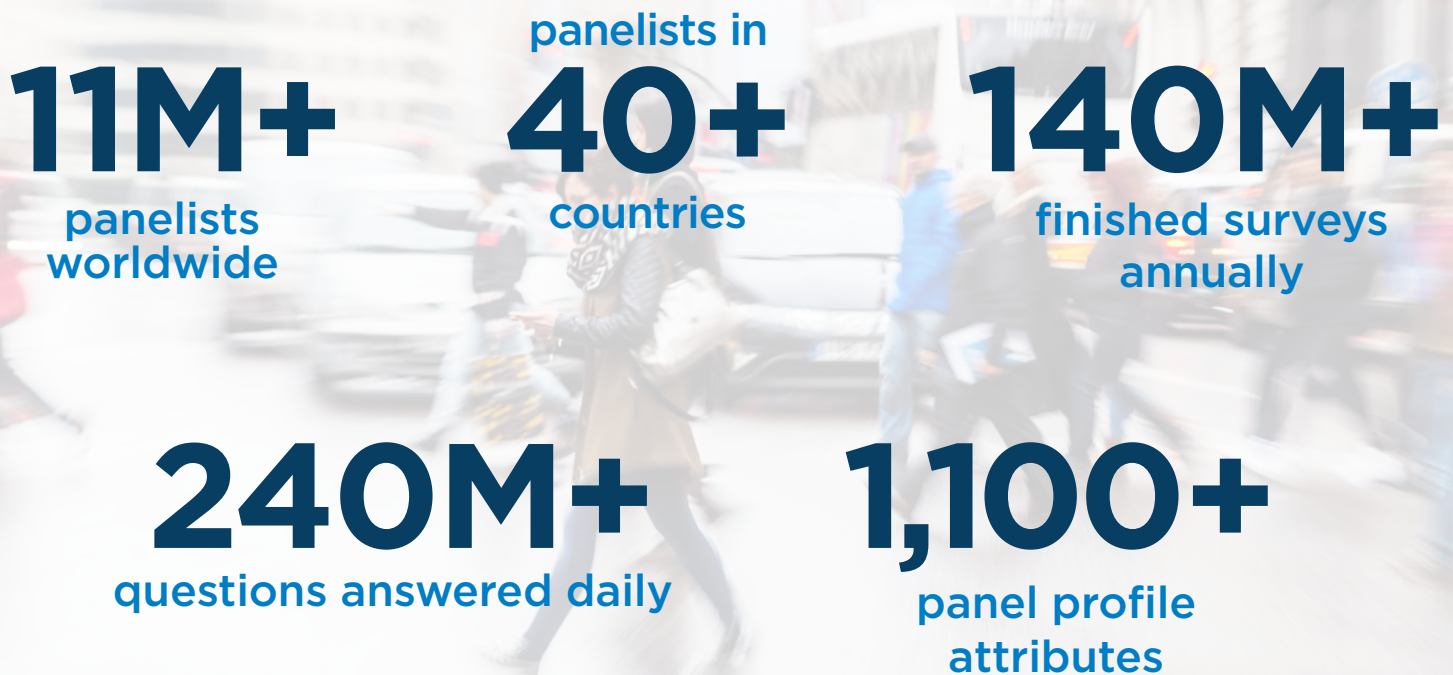


Source: 2014 – 2017 Annual Survey of Market Research Professionals (MarketResearchCareers.com)

Our Approach to Data Quality

From simple to complex surveying, Research Now has proven to be the leading online sample provider globally across all audience types. Quality data requires the strongest online panels, industry leading technologies and top research talent to execute flawless data collection.

Our Total Research Quality® system is a comprehensive integrated system of tools, metrics, procedures, and policies that operates throughout the entire lifecycle of each panelist across every project we complete to ensure our clients are receiving the highest quality data available. The system begins long before the data is collected and ends long after the analysis is complete.



11M+
panelists
worldwide

40+
panelists in
countries

140M+
finished surveys
annually

240M+
questions answered daily

1,100+
panel profile
attributes

Panel Recruitment

At the heart of Research Now are our highly-diversified panels. We acquire panelists through three distinct programs: eRewards® opinion panel, Valued Opinions® panel, and Peanut Labs® program. Through the network effect of these in-house assets, Research Now can give you access to one of the largest representative and highest quality audiences in the industry.

We have the ability to deliver census-balanced general population consumer data, and with our deep panel profiling, we make it easier and more efficient to reach complex audiences. Our recruitment methods allow you to gain access to hard-to-reach business professionals and consumers, including low-incidence audiences, who are less likely to join panels.

Research Now works to optimally blend these assets based on your project needs with a specific strength in large, census-balanced sampling that generates consistent, quality research data.



How We Recruit	We partner with over 60 leading global brands to enable a "By-Invitation-Only"® recruitment methodology	Members are recruited in partnership with over 70 global online publishers	Participants are recruited via hundreds of websites and online communities
Who We Reach	The highest-quality global resource to reach B2B and B2C audiences	A broad reach of diverse audiences on a global scale	Unique access to hard-to-reach online (e.g. Youth) audiences
How Many We Reach	4 million unique participants in the 10 key global research markets	4.1 million unique participants in 39 global research markets	2.9 million annual participants across 29 countries
Why People Take Our Surveys	Members earn points for completed surveys that are transferable to loyalty rewards applicable to the partner they've joined through	Members are enticed with monetary incentives with the ability to redeem through specific mechanisms or vouchers	Participants are rewarded virtual currency relevant to the publisher they joined through

Healthcare Specialty Panel

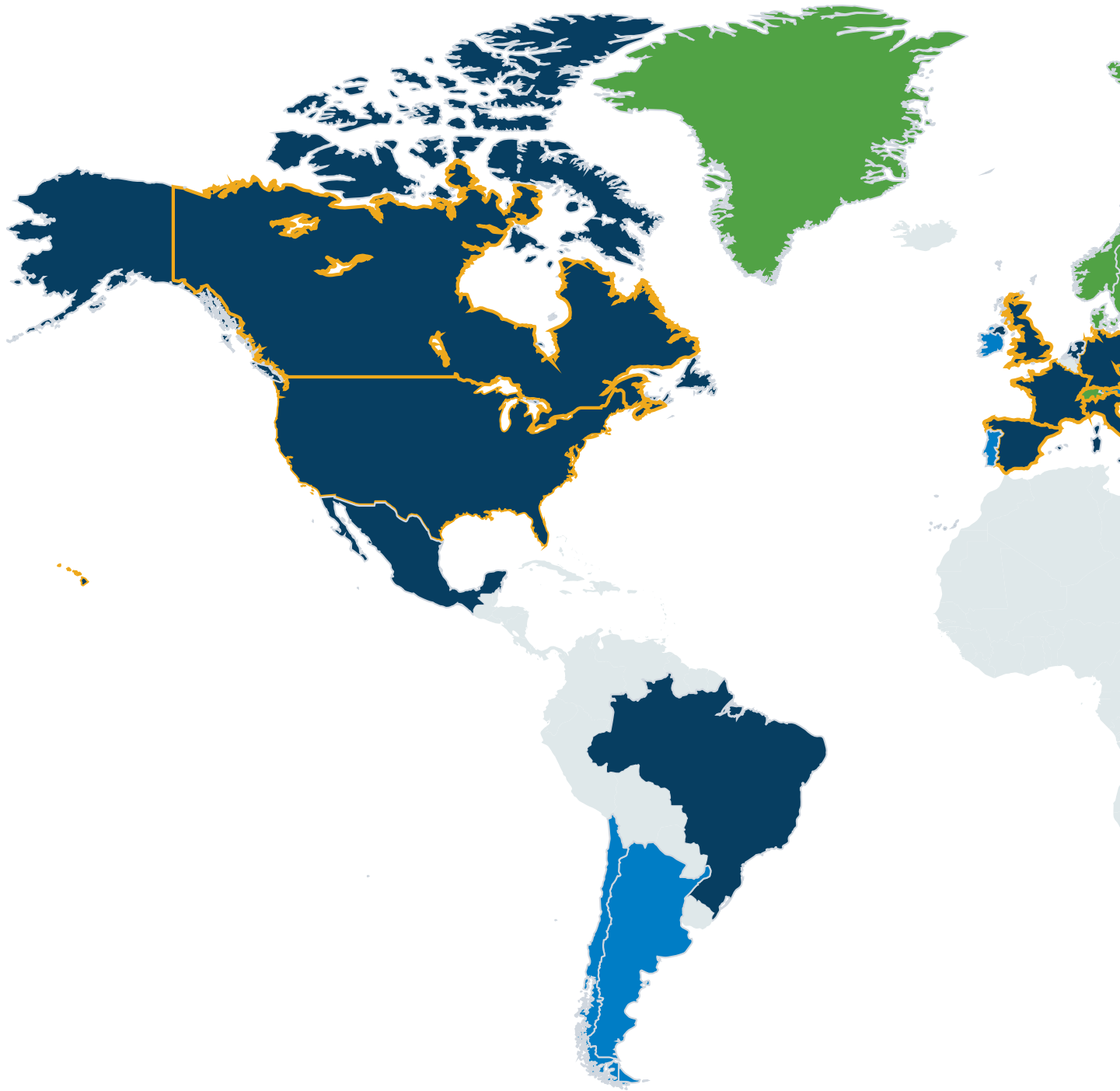
Connect to hard-to-reach healthcare professionals via our e-Rewards® Medical Market Research® panel.



- Access to more than 180,000 physicians, nurses, and other healthcare professionals via our "By-Invitation-Only"® recruitment methodology
- One of the largest, highest-quality medical market research panels available to the professional healthcare community
- These healthcare professionals enjoy making a difference and sharing their expertise through their membership. They are given monetary incentives for completing surveys and are able to redeem a virtual e-Rewards Medical Visa® Prepaid Card (currently only US), physical Prepaid Card or check

It's important to understand the heart of our panel members. Engaging our participants is crucial to ensure we deliver the highest quality for our clients. If our members are attentive and content, that means accurate, thoughtful answers and, ultimately, better data quality.

Global Panel Footprint




Consumer,
Business
& Social Media

Australia | Brazil
Canada | France
Germany | Italy
Mexico | Spain
Netherlands
United Kingdom
United States


Consumer
& Business

Bahrain | Denmark
Finland | India
Norway | Qatar
Saudi Arabia
South Africa
Sweden
Switzerland
United Arab Emirates